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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth periodic reports of States parties due in 1996

Addendum

United Kingdom of Great Britain and Northern Ireland*

[22 August 1996]

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* This document contains the fourteenth periodic report due on 5 April 1996. For the thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/263/Add.7, CERD/C/263/Add.7 Part II and CERD/C/SR.1139-1141.

The annexes to the report submitted by the Government of the United Kingdom of Great Britain and Northern Ireland may be consulted in the Secretariat's files.

The information submitted by the United Kingdom of Great Britain and Northern Ireland in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/Core/1/Add.5/Rev.1.

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CONTENTS

	Paragraphs	Page
Introduction	1	3
I. THE METROPOLITAN TERRITORY	2 - 112	3
A. Introduction	4 - 6	3
B. Attitude surveys	7 - 9	4
C. Article 2 - Government measures to combat racial discrimination	10 - 19	4
D. Article 4 - Incitement to racial hatred	20 - 22	6
E. Article 5 - Prohibition and elimination of racial discrimination	23 - 101	7
F. Article 6 - Protection and remedies against racial discrimination	102 - 106	22
G. Article 7 - Promoting tolerance and understanding	107 - 111	23
H. Article 14 - Right of individual petition	112	24
II. THE CROWN DEPENDENCIES	113 - 171	24
A. Guernsey	114 - 149	24
B. Jersey	150 - 165	31
C. The Isle of Man	166 - 171	35
III. THE DEPENDENT TERRITORIES	172 - 324	38
A. Anguilla	173 - 194	38
B. Bermuda	195 - 204	42
C. British Virgin Islands	205 - 224	45
D. Cayman Islands	225 - 244	49
E. Falkland Islands	245 - 249	52
F. Gibraltar	250 - 252	53
G. Hong Kong	253 - 274	54
H. Montserrat	275 - 299	61
I. Pitcairn	300	65
J. St. Helena (including Ascension Island and Tristan da Cunha)	301 - 303	65
K. Turks and Caicos Islands	304 - 324	66

Annexes to Part I of the report (The Metropolitan Territory)

Introduction

1. In accordance with the recommendation made by the Committee on the Elimination of Racial Discrimination in paragraph 37 of its concluding observations on the United Kingdom's thirteenth periodic report under the Convention, the United Kingdom submits this, its fourteenth periodic report, as an updating report, covering the United Kingdom's metropolitan territory, the Crown Dependencies and the United Kingdom's dependent territories overseas and addressing all the points raised in the Committee's concluding observations. The present report accordingly falls into three parts. Part I deals with the metropolitan territory (that is to say, England and Wales, Scotland and Northern Ireland); Part II deals with each of the Crown Dependencies (that is to say, Guernsey, Jersey and the Isle of Man); and Part III deals with each of the dependent territories overseas (that is to say, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Hong Kong, Montserrat, Pitcairn, St. Helena (including Ascension Island and Tristan da Cunha) and the Turks and Caicos Islands).

I. THE METROPOLITAN TERRITORY

2. This part of the present report describes the legislative, judicial, administrative and other measures which have been taken to give effect to the Convention in the metropolitan territory of the United Kingdom (that is to say, England and Wales, Scotland and Northern Ireland) during the period up to 30 September 1996. The annexes to this part of the present report are attached at the end of the whole report.

3. In accordance with the wishes of the Committee, the United Kingdom has confined itself to answering questions raised in the concluding observations following oral examination of the thirteenth report and updating the Committee on any legislation introduced since the last report. The Report, therefore, covers three main areas of work: the Asylum and Immigration Act 1996; details on the introduction of anti-discrimination legislation in Northern Ireland; and information on the development of plans to improve the economic and social conditions of ethnic minority groups throughout the United Kingdom.

A. Introduction

4. The United Kingdom Government is firmly committed to the elimination of all forms of racism and to developing policies which address the problems of discrimination, intolerance and violence. It already has some of the most stringent and comprehensive anti-discrimination legislation in Europe, which makes racial discrimination in employment and in the provision of goods and services unlawful. It also funds the Commission for Racial Equality, a statutory body with a duty to promote good race relations and eliminate artificial barriers throughout Great Britain, as well as supporting a large number of programmes aimed at tackling discrimination and disadvantage, many of which are set out in this report.

5. The United Kingdom Government takes equally seriously its responsibilities to ensure that everyone is able to live in a safe, secure environment where they can be free to live their lives without fear of

violence or intolerance. The general criminal law is already available to deal with offences of racial violence and harassment, and the Government also introduced in the Criminal Justice and Public Order Act 1994 a new offence of intentional harassment, specifically designed to address the problems of racial harassment. Legislation is not enough, however, and the Racial Attacks Group has been looking at ways of ensuring that the response to these sorts of crimes is as uniform and effective as possible.

6. The problem of racial disadvantage is another area of concern to the United Kingdom Government and is wider and more difficult to tackle. Research suggests that, on average, members of ethnic minorities are more likely to live in deprived inner city areas and are over-represented in the criminal justice system both as perpetrators and victims of crime. They are also, broadly speaking, more likely to be unemployed. There are many programmes and initiatives which have been introduced aimed at regenerating the economy and tackling unemployment, particularly in inner cities where many ethnic minority communities live. Details of these are provided later in the report.

B. Attitude surveys

7. The United Kingdom Government believes that the mechanisms in place to combat racism and discrimination have helped improve the position of ethnic minorities in the United Kingdom and there is much evidence from research to support this view. However, there are no grounds for complacency: discrimination and hostility still exist, and some sections of the ethnic minority communities still have special needs which government policies are designed to address.

8. Information obtained from censuses and surveys will help central and local government, health authorities, private employers and voluntary bodies to know what inequalities exist and to develop policies to tackle them. Details of the 1991 Census of Population were given in the thirteenth periodic report, and preparatory work for the 2001 Census has already begun to look at ways of improving and refining the ethnic questions used in 1991 whilst retaining continuity.

9. The British Social Attitudes Survey provides a long-term view of public attitudes to a range of social issues, including race. The Committee requested information on the methodology of this survey, which is provided at annex 1.

C. Article 2 - Government measures to combat racial discrimination

10. The United Kingdom Government has noted the Committee's recommendation that the Race Relations Act should be examined with a view to elevating its status in domestic law. One of the key principles of parliamentary sovereignty, however, is that Parliament may not bind its successors. Accordingly, no United Kingdom law is endowed with status superior to other laws and it may therefore be amended or replaced by Parliament, as Parliament considers necessary. The flexibility provided by this principle is considered to be an important feature of our democracy and ensures that laws may be

developed to fit the precise needs of the people of this country, at a particular time. In the Government's view, what matters is whether the particular arrangements adopted are effective.

Entrenchment of the Race Relations Act

11. The United Kingdom Government is fully committed to ensuring that legislation is adequate to tackle racial discrimination. The Race Relations Act 1976 is already one of the most comprehensive pieces of racial discrimination legislation in Europe. It makes racial discrimination generally unlawful in the fields of employment, education, housing and the provision of goods and services. The legislation is kept under regular review to ensure that it meets the objectives set for it.

12. There is no significant evidence to suggest that the passage of other legislation has conflicted with the working of the 1976 Act. On the contrary, much of the legislation which has affected the Act has sought to support and improve its provisions; for example, the Race Relations (Remedies) Act 1994 improved the redress which is available to victims of racial discrimination by removing the ceiling on levels of compensation which can be awarded.

Scotland

13. The United Kingdom Government notes the Committee's observation that some of the measures introduced in the Criminal Justice and Public Order Act 1994 do not apply in Scotland. There is a strong commitment to tackling racism in Scotland. The alternative approach adopted is simply due to the fundamental difference between Scottish and English criminal law.

14. In Scotland, intentional harassment, alarm or distress falls within the broad common law offence of breach of the peace. A police constable may arrest, without warrant, anyone he reasonably suspects to have committed or to be likely to commit a breach of the peace. The maximum sentence available for a conviction for breach of the peace depends on the court in which the case is prosecuted. The maximum sentence of imprisonment ranges from 60 days in the district court to life imprisonment in the High Court. The choice of court, which is determined by the Crown, will reflect the gravity of the particular offence. Aggravating factors such as racial motivation may be narrated in the charge and the Lord Advocate has issued guidelines to procurators fiscal that any racial element in a crime must be brought to the court's attention so that the court can take it into account when deciding upon the sentence.

Northern Ireland

15. The United Kingdom Government shares the Committee's concern at the lack of legislation in Northern Ireland to outlaw racial discrimination. Close consideration has been given to this issue and the United Kingdom Government is pleased to announce the publication of a Proposal for a draft Race Relations (Northern Ireland) Order in Council. The Proposal and an accompanying Explanatory Document were published on 16 July 1996 and widely circulated as part of the consultation process. A copy of the

Explanatory Document is attached at annex 2. The consultative process ended on 30 August 1996 and the Department of Economic Development is currently considering the comments received.

16. The Proposal closely follows the provisions of the Race Relations Act 1976, which applies in Great Britain, and will make racial discrimination unlawful in the fields of employment, training, education, housing and in the provision of goods and services. The Irish Traveller community, which shares some of the characteristics of an ethnic group, will be specifically referred to in the new legislation. It is expected that a draft Order in Council will be laid before Parliament by the end of the year with a view to having it debated and made as soon as the parliamentary timetable permits.

17. Research due to be published in November 1996 will, for the first time, give an official estimate of the ethnic minority populations in Northern Ireland. The research will provide information on age and gender profile, employment profile, experience of harassment/discrimination and views on access to services. The research is funded by the United Kingdom Government as part of its commitment to ensuring that reliable and up-to-date information is available on ethnic minorities in Northern Ireland; it will inform future policy in matters such as health and education for these communities.

18. Current initiatives of benefit to ethnic minorities include a regional conference, planned for November 1996, to raise awareness of the health and social care needs of the ethnic minorities in Northern Ireland. The conference is being organized in conjunction with the Chinese Welfare Association, Barnardos and the Health and Social Services Boards and Trusts. The Northern Ireland Social Security Agency has, in consultation with the Multi-Cultural Resource Centre, produced posters and leaflets on the main social security schemes and benefits in a number of ethnic minority languages, including Arabic, Bengali, Chinese, Gujarati, Greek, Hindi, Punjabi, Somali, Turkish, Urdu and Vietnamese.

19. The Committee expressed particular concerns about the welfare of the Chinese and Traveller communities in Northern Ireland and details of schemes specifically targeted at these communities are described in annex 3.

Article 4 - Incitement to racial hatred

20. The Committee's recommendation on article 4 has been duly noted. However, the United Kingdom maintains its interpretation of article 4 as stated on signature of the Convention in 1966 and reaffirmed on ratification. United Kingdom domestic law in this area is tried and tested and the United Kingdom Government firmly believes that it strikes the right balance between maintaining the country's long traditions of freedom of speech and protecting its citizens from abuse and insult.

21. In March 1996, the United Kingdom signed up to the European Union Joint Action on Racism and Xenophobia. This marks a significant step forward in tackling the scourge of racism across Europe. Under the Joint Action member States will:

(a) Provide evidence to other member States to help convict and punish those committing racist acts;

(b) Facilitate the search for racist material intended for dissemination in another member State;

(c) Seize such material.

22. The United Kingdom Government has made a clear commitment that it is prepared to legislate to close a loophole in the law so that the authorities are able to seize racist material produced in the United Kingdom which is intended for distribution in other member States.

E. Article 5 - Prohibition and elimination of racial discrimination

1. Article 5 (a) - Equal treatment: tribunals and other judicial bodies

Ethnic Minority Advisory Committee

23. The thirteenth periodic report referred to the Ethnic Minorities Advisory Committee (EMAC) which was established by the Judicial Studies Board to assist in addressing racial and multicultural issues in courts. Its prime objective is to provide training to raise the awareness of all who sit in any form of judicial capacity in courts or tribunals so as to help ensure that the judicial system is culturally and racially neutral. The Fourth Annual Report of EMAC is attached at annex 4.

24. The Committee requested further details on this training programme. The training is recommended for circuit judges, recorders, assistant recorders, stipendiary magistrates and district judges. So far 41 seminars have been held which were attended by a total of over 1,900 circuit judges, recorders and assistant recorders and stipendiary magistrates.

Recruitment to the judiciary

25. The Committee requested information on the criteria and arrangements for recruitment of members of the judiciary. This is attached at annex 5.

2. Article 5 (b) - Security of the person

Attacks on Jewish organizations

26. It is fundamental to the United Kingdom's policy on human rights that all its citizens should enjoy adequate protection against crime and criminal violence. The United Kingdom referred in the last report to attacks on Jewish organizations, and further progress on the investigations into these bombings has been made. Four people have now been charged with conspiracy to endanger life on or before 27 July 1994. The trial of those accused of the bombings began on 1 October 1996.

Police-community relations

27. The police service has a unique role which requires it to be in the forefront of society's commitment to provide fair and just treatment to all members of the community. If the public is to have confidence in the police service's commitment and capability to deliver fair treatment for all, it is important that the service is seen to treat its own members equitably and fairly. Consequently, internal equal opportunities is a key component of the police quality of service programme.

28. All police officers receive training in community and race relations matters as part of their probationer training at Police Training Centres, as well as within force and as part of more advanced training at Training Support and the Police Staff College. The Police Training Council has endorsed the continuing need for specialist support to assist the police service to develop effective community and race relations training arrangements and has agreed that the Home Office should continue to fund such support.

29. Any member of the public has the right to make a formal complaint if they feel unfairly or improperly treated by a member of a police force. The investigation and resolution of complaints is subject to the scrutiny of the independent Police Complaints Authority.

30. Police officers are subject to a strict discipline code and can be dismissed if found guilty of a serious breach of discipline. It is an offence under the disciplinary code for a police officer to treat in an oppressive manner any person with whom he may be brought into contact in the execution of his duty. This offence covers any instance where an officer without sufficient cause conducts a search, requires a person to submit to any test or procedure, or uses any unnecessary violence towards any person or improperly threatens any such person with violence. The code also encompasses offences relating to racially discriminatory behaviour.

31. Stop and search powers. The safeguards contained in the Police and Criminal Evidence Act 1984 are designed to ensure that stop and search powers are used appropriately and responsibly. For example, the requirement on police officers to state, before a search is carried out, the purpose of the search and their grounds for undertaking it, reinforces the requirement that searches can be made only on the grounds of reasonable suspicion, and not in a random or discriminatory fashion; and the requirement on the police to publish statistics about searches reveals to public scrutiny the broad application of stop and search powers. Since April 1993, as part of the national set of performance indicators for the police, all forces are required to undertake ethnic monitoring of stop and search, and to publish the results locally. The Home Office also publishes the information for all 43 forces annually. Figures have been published for the financial years 1993/94 and 1994/95. Figures for 1995/96 will be available later this year. On 1 April 1996, ethnic monitoring was extended to arrests, cautions, homicides (both victims and perpetrators) and deaths in custody. This information will be available in the summer of 1997.

32. Holly Royde seminars. The Home Office organizes and runs the Holly Royde seminar which has developed a high reputation within the police

service. The seminar focuses on the relationship between the police and the public (particularly between the police and ethnic minority communities) and the implications for operational policing in multiracial Britain. It allows police managers to examine and address their local policing priorities and practice with a greater awareness of the multiracial context in which they operate. A key feature of the course is its focus on providing practical solutions to real problems. Those attending the seminar are required to bring with them a local police-community relations issue in which they are currently involved. A major aim of the seminar is to help participants to develop and implement existing or future plans for dealing with these issues, so that they return to their forces with a more structured approach to the work they are doing.

33. Community consultation. All police authorities are required by section 106 of the Police and Criminal Evidence Act 1984 to make provision for community consultation on policing issues. This enables the police to take account of the differing needs of each community and set priorities accordingly. Police Community Consultative Groups are a formal mechanism for the community to raise issues concerning local service delivery. They play a prominent role in representing community views to the police, although wider-level consultation is encouraged in many forces.

34. Recent changes to the composition of police authorities have ensured wider community representation, in addition to the previous membership of local councillors and magistrates. A Police Research Group study is currently examining good practice in the way the police service and police authority consult the local community and provide feedback. Its report is due at the end of the year.

Deaths in custody

35. Deaths in police custody are taken extremely seriously and there is a rigorous system in place for investigating and taking action on such incidents. The independent Police Complaints Authority is required to supervise the investigation of all deaths in custody and cases must also be referred to an independent coroner.

36. The numbers and circumstances of all deaths in police custody are published every year. Ethnic monitoring of deaths in custody was introduced into all forces on 1 April this year and figures should be available next summer.

37. Lay visiting schemes which encompass inspection and supervision of detention in police stations are in place all over the United Kingdom. The objectives of the scheme are to enable members of the local community to observe, comment and report on the conditions under which persons are detained at police stations and the operation in practice of the statutory and other rules governing their welfare, with a view to securing greater public confidence and understanding in these matters.

Racial Incidents

38. As reported in the thirteenth periodic report, an interdepartmental Racial Attacks Group was established in 1987, following the 1986 Home Affairs Committee report on racial attacks. The Group's first report, published in 1989, made a series of detailed recommendations, the most important being that local multi-agency groups should be established to combat racially motivated crime. The report was distributed to all local authorities and police forces, and the implementation of the recommendations by forces has been monitored as a priority by Her Majesty's Inspectorate of Constabulary. A follow-up report was published in January 1992, which detailed progress made so far, noted good practice, and set out the way forward for local agencies.

39. The Racial Attacks Group has now completed its work and will publish its report this autumn. The report will re-emphasize the importance of agencies working together in this area; highlight national good practice within individual agencies; and identify civil law remedies as a further way of tackling this problem. Future work with a more operational focus, much of which was identified by the Racial Attacks Group, will be taken forward by the Racial Incidents Standing Committee. As its name suggests, this committee will consider a wider range of racial problems. It will seek to publish examples of good practice, both between and within agencies at a local level.

3. Article 5 (c) - Political rights: rights to participate in elections,rights to take part in Government and the conduct of public affairs

Voting and elections

40. In the United Kingdom, the right to vote is restricted to British, Commonwealth and Irish citizens who are eligible to vote at all elections and to citizens of the European Union, who may vote at European Parliamentary elections and local elections.

41. Each year the Government funds a national advertising campaign to coincide with the annual canvass which is usually targeted at those groups for whom under-registration is most marked. Post-campaign research indicates that awareness of the need to register to vote has been significantly improved among target groups as a result of these campaigns.

42. The Home Office has made available model explanatory notes on the registration system in a number of ethnic minority languages. These models are intended for adaptation by electoral registration officers according to local circumstances. The languages covered are Bengali, Chinese, Greek, Gujerati, Hindi, Punjabi, Turkish and Urdu.

43. Any individual who meets a citizenship qualification may put himself or herself forward for election at local government or parliamentary elections. Ethnic background is not a disqualification.

Equal opportunities in public and government office

44. Public office. The United Kingdom Government is committed to a policy of equal opportunities in the appointments which ministers make to public bodies. In 1991, at the launch of "Opportunity 2000", the Prime Minister announced a fresh government initiative aimed at increasing the number of appointments to public bodies held by women and members of ethnic minorities.

45. Ethnic monitoring of appointees was introduced at the end of 1991 and the first statistics in 1992 showed that 2 per cent of public appointments were held by members of ethnic minorities. This figure rose to 2.3 per cent in 1993 and 2.9 per cent in 1995. The Public Appointments Unit monitors the position closely and reports annually to the Prime Minister.

46. The Public Appointments Unit has been active in seeking names of more ethnic minority candidates for its database and has had some success in obtaining appointments for those on its list. The Unit has also recently started a programme of regional meetings to encourage more members of ethnic minority communities to become involved in public life. The Unit's "Report of review of guidance on public appointments procedures" recommended that there should be sustained attention to equal opportunities. This report and its recommendation has been accepted by ministers. An independent commissioner was appointed in December 1995 to advise on and monitor departmental appointments procedures and he has since established seven key principles for public appointments, one of which is equality of opportunity. The commissioner's "Guidance on appointments to executive and non-departmental public bodies and NHS Trusts" was issued in April 1996 and contains a section on equal opportunities. This is attached at annex 6.

47. The Civil Service. The United Kingdom's thirteenth periodic report contained information on the Programme for Action to achieve equality of opportunity in the Civil Service for people of ethnic minority origins. This was introduced when surveys on the ethnic origin of staff revealed that ethnic minorities were under-represented in the Civil Service and in particular at the higher grades. The role of the Office of Public Service in the programme is to provide advice and guidance where appropriate; to develop and spread best practice; and to monitor and report on progress servicewide. During 1993 a review of the programme was undertaken to evaluate its progress and effectiveness and a focus group of representatives from departments and agencies was set up to implement its recommendations. The review of the programme is being used by departments to develop and inform their own race equality programmes.

48. To monitor the programme's effectiveness, regular reports and an annual data summary are published and each has shown that progress continues to be made. The number of ethnic minority staff has increased from 4.2 per cent in 1989 to 5.4 per cent in 1995. This compares with 4.9 per cent in the economically active population. While ethnic minorities are still under-represented in senior grades, the proportion of ethnic minority staff at this level did increase from 1.5 per cent in 1989 to 2.5 per cent in 1995. Particular attention, including positive action training, has been focused on the Executive Officer level, the first at which under-representation occurs.

Here ethnic minority representation has increased to 4.3 per cent compared with 2.9 per cent in 1989. Promotion rates to this level during 1994/95 were higher for ethnic minority staff than for white staff.

49. Police Service. The police service is a visible and influential public service which relies on the support and active participation of the community. Fair and non-discriminatory treatment of all staff and of members of the public is vital if the service is to retain the trust and confidence of the public in its professionalism and integrity. To this end, the police service, supported by the Government, actively pursues equal opportunities policies.

50. The recruitment and retention of members of ethnic minorities to the police service is a high priority. The United Kingdom Government is concerned that the police service should represent those communities it serves. Forces are always keen to accept applications from members of ethnic minority groups and recognize that there is still work to be done in increasing their representation in the police service. The following are current examples of local police force ethnic minority recruitment initiatives:

(a) Recruitment advertising in publications specifically aimed at ethnic minorities;

(b) Recruiting posters designed to attract more ethnic minority applicants;

(c) Visits by recruiting officers to ethnic minority communities;

(d) Open evenings and "familiarization courses" (E.g., between 1993 and 1995 South Yorkshire have organized 12 courses aimed at giving potential applicants from ethnic minority backgrounds a view of the service. Since the beginning of their recruitment drive, they have raised the number of ethnic minority officers from 20 to 67);

(e) Recruitment fairs specifically for ethnic minority applicants.

51. Armed Forces. Although ethnic minorities are currently under-represented in the armed forces, the three services are committed to a range of measures to increase the numbers of ethnic minority service personnel and to develop equal opportunities policies to ensure that personnel of all ethnic origins are treated fairly. Recruitment advertising has been targeted at ethnic minority newspapers and radio stations; serving ethnic minority personnel are regularly featured in armed forces recruiting literature; recruiting literature is published in five main Asian languages for the benefit of parents of potential applicants; all careers office staff receive ethnic minority awareness training.

52. Management consultants were appointed in January 1996 to examine ethnic minority issues in the Ministry of Defence, both service and civilian areas. The review included an examination of policy documents and procedures relating to training, recruiting and personnel management, in order to identify ways to improve current practice and recommend areas where new initiatives might be developed. The final report was received in September 1996 and arrangements are in hand to take recommendations and work forward.

4. Article 5 (d) - Other civil rights

(a) Subparagraphs (i)-(iii) - Immigration and nationality (freedom of movement)

The Asylum and Immigration Act

53. Despite the reduction in decision times following the implementation of the Asylum and Immigration Appeals Act 1993, the marked increase in the number of asylum applications (from 22,400 in 1993 to just under 44,000 in 1995) has led to the need for further measures to combat growing delays and address serious abuse in the asylum system. (In 1995 only 5 per cent of asylum claimants were initially granted asylum and only 3 per cent of appeals against refusal were upheld.)

54. The Asylum and Immigration A - 1996 was introduced to ensure that unfounded asylum claims were dealt with more speedily and to discourage unfounded asylum claims in the United Kingdom. The Act came into force on 24 July 1996. It enables the Secretary of State to apply an accelerated appeals procedure to cases from designated countries which do not generally give rise to a serious risk of persecution and will make appeals in certain safe third country cases exercisable only after removal. This provision will initially be restricted to those removed to third countries which are member States of the European Union.

55. The Act also contains a number of miscellaneous non-asylum provisions which are designed to improve the effectiveness and coherence of the immigration control. These include a number of enforcement measures considered necessary to fill gaps in the present law, including the extension of the right to apply for bail to individuals detained under the Immigration Act 1971. The legislation also enables the Secretary of State to align entitlement to housing assistance and child benefit with entitlement to other welfare benefits.

56. People subject to immigration control. Section 8 of the Asylum and Immigration Act 1996 makes it a criminal offence to employ people working within the United Kingdom without permission. Employers may protect themselves against prosecution by ensuring that new employees provide them with copies of relevant documentation. The United Kingdom Government takes the view that the availability of employment should not provide an incentive to delay the speedy resolution of any appeal.

57. A report compiled by independent consultants drew attention to evidence of deliberate time-wasting at the appeal stage and concluded that the availability of benefits provided an incentive to delay the final decision. Sections 9 and 10 of the Asylum and Immigration Act deal with the entitlement of persons from abroad to housing assistance and child benefit. These enable Orders to be made specifying classes of persons subject to immigration control who are to be eligible for council housing and housing assistance and child benefit. A person subject to immigration control is defined as a person who requires leave to enter under the 1971 Immigration Act. There is no intention to change the entitlements of settled people or to treat them differently from British citizens. Moreover, persons who are granted refugee status, or

exceptional leave to remain in the United Kingdom, will continue to be entitled to public housing assistance and all welfare benefits as before. The Orders affect only those who are not entitled to social security benefits.

58. Application of the Act. The Asylum and Immigration Act 1996 will not affect the United Kingdom's obligations under the International Convention for the Elimination of All Forms of Racial Discrimination. All asylum applications will continue to be determined, regardless of race or nationality, in accordance with the criteria of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The Act will apply equally to all persons who fall within its scope regardless of their ethnicity. There is nothing racist about designating countries which produce large numbers of unfounded asylum applications. The countries proposed cover Europe, Africa and Asia. (These are: Bulgaria, Cyprus, Ghana, India, Pakistan, Poland and Romania.) The conditions in the country of origin will, of course, be taken into account when determining a claim for asylum.

59. Discrimination. The United Kingdom Government attaches great importance to the objectives of eliminating racial discrimination and promoting equality of opportunity within United Kingdom society. The Immigration and Nationality Directorate of the Home Office adheres to a clear, well-publicized policy statement on equal opportunities which pays particular attention to the issue of race relations. All staff are made aware of the policy statement and receive specific training.

60. The Immigration Rules require all immigration officials to perform their work without regard to the race, colour or religion of persons who apply to enter or remain in the United Kingdom. A copy of the policy statement is attached at annex 7.

(b) Subparagraph (vii) - Freedom of thought, conscience and religion

Religious discrimination

61. There is no specific legislation covering religious discrimination in Great Britain. However, discrimination against members of groups which are primarily religious, but which also satisfy certain tests (e.g. shared history, geographical background, language) established by the courts to determine whether a group is an ethnic group, is covered by the Race Relations Act 1976. As a result, Sikhs and Jews have been determined by the British courts to be ethnic groups.

62. In the first case of religious discrimination to have come before an Industrial Tribunal (the Panter case in Sheffield) it was held that an employer who refused to consider Muslim applicants was guilty of indirect discrimination since most Muslims in the area were of Asian origin. An Industrial Tribunal has also held that an employer was guilty of indirect discrimination by insisting that all employees work on the Festival of Eid.

63. Over the last two years, the Commission for Racial Equality (CRE) has been reviewing the legislation to see whether there is significant religious discrimination in Britain and whether the existing race relations legislation is adequate to deal with any problems which might occur. The CRE's scrutiny

included a comprehensive survey of over 2,000 agencies in England, Scotland and Wales, including solicitors' offices, Citizens Advice Bureaux and religious organizations, seeking details of cases involving religious discrimination. This showed that cases where religion may have been a factor were very rare and that most of these cases could otherwise have been dealt with under the Race Relations Act 1976.

64. There is little evidence, therefore, to suggest that individuals in Great Britain are discriminated against on the grounds of their religious belief, rather than their racial background. However, the United Kingdom Government will continue to keep this situation under review, and will listen to the views and the concerns of those communities with a specific interest in this aspect of the law. The Commission for Racial Equality is also continuing to monitor the situation.

65. The Committee requested information on the current position with regard to blasphemy in the United Kingdom. This is provided at annex 8.

5. Article 5 (e) - Economic, social and cultural rights

Regeneration policy

66. The United Kingdom's Government's regeneration policy is designed to achieve the regeneration of run-down areas, which includes helping the inhabitants of those areas who, in many cases, will be members of different ethnic groups. Projects have been implemented to meet one or more of the following overall objectives:

(a) To enhance the employment prospects, education and skills of local people, particularly the young and those at a disadvantage, and promote equality of opportunity;

(b) To encourage sustainable economic growth and wealth creation by improving the competitiveness of the local economy including support for new and existing businesses;

(c) To protect and improve the environment and infrastructure and promote good design and landscaping in line with the Secretary of State for the Environment's Quality Initiative;

(d) To improve housing and housing conditions for people through physical improvements, better maintenance, improved management and greater choice and diversity;

(e) To tackle crime and improve community safety.

67. Single Regeneration Budget. The Single Regeneration Budget forms part of the United Kingdom Government's programme to provide flexible support for regeneration and economic development in a way to meet local needs and priorities. One of the key objectives of the budget is "to promote initiatives of benefit to ethnic minorities". The Single Regeneration Budget Challenge Fund is part of the Single Regeneration Budget. It is a catalyst for local regeneration, helping to improve local areas and enhance the quality

of life of local people by tackling need, stimulating wealth creation and enhancing competitiveness. Of the 372 successful Challenge Fund projects to date, 133 had as an objective the promotion of initiatives of benefit to ethnic minorities. These projects will receive over £1 billion in Challenge Fund support over their lifetime of up to seven years.

68. City Challenge. The City Challenge initiative offers local authorities in England, in partnership with local businesses, the community and the voluntary sector, the opportunity to tackle some of their worst economic, social and environmental conditions. Many of these areas have a high ethnic minority population. During the lifetime of the initiative, government funding of over £1 billion is expected to attract more than £3 billion of private sector investment to City Challenge areas.

69. Task Forces. Task Forces are small teams which operate in designated deprived urban areas. Their objective is to improve local people's employment prospects, stimulate enterprise development, and strengthen the capacity of communities to meet local needs. In doing so, they target the needs of specific disadvantaged groups, especially ethnic minorities.

70. In 1994/95, the urban programme grant aided some 2,400 projects in 57 urban priority areas. The programme seeks to rebuild confidence and encourage investment in tightly defined target areas. Spending on projects directly benefiting ethnic minority groups was about 9 per cent of total spending of £77 million in 1994/95, although ethnic minority groups also benefit from non-targeted expenditure by, for example, the improvement of the local environment. The programme is winding down and the final projects will finish in 1996/97.

71. Safer Cities programme. The Safer Cities programme is a Government-funded crime prevention initiative. Its objectives are to reduce crime, to lessen the fear of crime, and to create safer cities in which economic enterprise and community life can flourish. Between 1988 and 1995, 52 Safer Cities projects were established in urban areas with high crime rates and other multiple social problems. The projects involve local people, including representatives from ethnic minorities, who work together on a multi-agency basis in deciding on the crime prevention and community safety schemes to be set up in their locality.

72. Section 11. Grant is paid by the Home Office, under section 11 of the Local Government Act 1966, to local authorities and certain education institutions outside local authority control (such as colleges of further education) to enable the employment of additional staff to help members of ethnic minorities to overcome linguistic or cultural barriers and thereby to gain full access to services and facilities. The impact of the grant is monitored to ensure that it achieves maximum benefit for ethnic minorities.

73. More than 90 per cent of the available provision has been granted to education and the employment of teachers of English as a second language in order to raise the overall educational achievement of ethnic minority children. Grant is also paid in a range of other areas, including housing, social services, environmental health, training and enterprise projects and

ethnic minority businesses. Local authorities have been encouraged to identify projects suitable for the placement of local authority staff to work in or alongside ethnic minority voluntary organizations.

(a) Subparagraph (i) - Employment (free choice of employment)

74. The Race Relations Act 1976 provides protection for individuals against racial discrimination in employment. In addition to legislation, the United Kingdom Government offers advice and guidance to employers through the Department for Education and Employment's (DfEE) Race Relations and Employment Advisory Service which advises employers on the development and implementation of policies and practices aimed at eliminating racial discrimination in employment. The service is targeted at larger employers who have taken little or no action to promote racial equality in their work place.

75. Many businesses now recognize how much they have to gain from the skills and talents of people from all racial groups and are putting in place good equal opportunity practices. The United Kingdom Government encourages this by providing published guidance, a list of which is attached at annex 9. DfEE's programmes and services are available to all and special provision is made for those who need extra help, for example, those for whom English is not a first language.

Unemployment

76. Unemployment rates for ethnic minority people are generally twice those for whites. There are a number of complex factors which contribute to this situation:

(a) Many ethnic minority people live in inner city areas where unemployment is generally high;

(b) A high proportion of Bangladeshi or Pakistani people are without educational or vocational qualifications, and some are not fluent in English;

(c) Over a number of years many ethnic minority people found work in older manufacturing industries which have been in decline since the 1970s;

(d) Some employers practise racial discrimination, often unintentionally, in their recruitment and promotion procedures.

77. It is clear that some ethnic minority groups are progressing well in the labour market while others, especially Afro-Caribbean and Bangladeshi men, are falling behind. There is also evidence to suggest that ethnic minority workers have moved into higher-level occupations over the past 20 years and there is a steady increase in the number taking up the challenges and opportunities of self-employment. Much has been achieved to improve the employment prospects of ethnic minority communities in the United Kingdom but much more needs to be done.

Employment and Training

78. All employment and training programmes are open to all unemployed people, regardless of sex, race and disability. The Employment Service (ES) is an Executive Agency within the Department for Education and Employment and is committed to applying the principles of equal opportunities in its programmes and services. ES objectives include a commitment to provide unemployed job seekers - particularly those who have been unemployed for longer than six months - with job opportunities, help with job search, opportunities to become self-employed, or help in finding appropriate training. Ethnic monitoring of programmes and services is undertaken, where practicable, in order to find out the rate of ethnic minority participation and to ensure equal opportunities are working. This is done through surveys and regular sampling exercises.

79. The Job Interview Guarantee (JIG) was launched in November 1989 in 20 pilot areas. The success of the programme has resulted in its being extended nationwide to cover areas where there is a high concentration of long-term unemployed people. JIG aims to overcome the resistance of employers to long-term unemployed people by obtaining the employer's agreement to guarantee interviews in return for enhanced services from the ES.

(b) Subparagraph (iii) - housing

80. The United Kingdom Government is committed to the promotion of equality of opportunity in housing. The White Paper, Our Future Homes, published in June 1995, sets out the Government's policies to ensure that a decent home is within reach of every family. Some of the current initiatives are set out below.

Racial harassment in housing

81. The United Kingdom Government has been concerned about the extent of the harassment of ethnic minorities on housing estates and carried out a survey in 1994/95 for the Racial Attacks Group. This survey covered local housing authorities and large housing associations. Among the key findings were that a minority of housing authorities had a problem with racial harassment against their tenants. Most of these organizations have policies in place to deal with racial harassment and further advice on good practice in tackling racial harassment was published in April 1996.

82. The Housing Act 1996 enables local authorities to apply introductory tenancies to all new tenants throughout their housing stock. These provisions come into force in January 1997. Introductory tenancies will provide for a 12-month probationary period during which tenants whose behaviour is unacceptable can be served with an eviction notice. Actions which might give rise to eviction include racial harassment.

83. The United Kingdom Government has also included in the Housing Act 1996 a substantial package of measures designed to help local authorities to tackle anti-social behaviour in their areas. The Act makes it possible for a local authority to evict a tenant for behaviour likely to cause nuisance, which can facilitate the use of professional witnesses, and allow for a power of arrest

to be attached to injunctions taken out by social landlords to stop anti-social behaviour, where violence has occurred or is likely to occur.

(c) Subparagraph (iv) - Social services and social security (public health, medical care)

Social security

84. United Kingdom Government policy recognizes the need to ensure that personal social security services are sensitive and responsive to the needs of all communities. Reference was made in the thirteenth periodic report to the Benefits Agency (BA) which is an executive agency of the Department of Social Security. In March 1995, the BA set up an internal network covering the whole country whereby representatives of staff working with ethnic minority customers meet to establish and take forward information and training needs and exchange information about good working practices and initiatives for developing BA's service to ethnic minority customers.

85. The Benefits Agency has a policy on providing interpreting services for customers for whom English is not the first language. The Agency holds twice-yearly Ethnic Minority Forums which provide an opportunity for customer representatives to raise issues of concern and to contribute to the improvement of the BA's service. Some BA districts which have large ethnic minority communities undertake outreach work in community centres and places of worship.

(d) Subparagraph (v) - Education and training

86. The United Kingdom Government is concerned that some pupils, including those from some ethnic minority groups, are failing to achieve their potential. Action has therefore been taken in England to raise the performance of all pupils and to tackle the obstacles to higher achievement which are common to all.

English as a foreign language

87. If ethnic minority pupils are to have the same opportunity as others to profit from what schools can offer, some will need additional help to meet their particular educational needs. The United Kingdom Government continues to attach particular priority to equipping all children whose mother tongue is not English with a good command of the language. Without it, they will be unable to participate on equal terms at school or within society. The United Kingdom Government also acknowledges that mother tongue support in the early primary years can provide pupils with access to the curriculum and facilitate their learning of English.

88. It is essential that English language support specialists and mainstream class or subject teachers should work together to identify and help meet pupils' individual language learning needs. To encourage them to do so, the Department for Education funded an action research project on "Partnership Teaching" from 1989 to 1991. The project produced materials for the in-service training of teachers working in multilingual classrooms, which were published in 1991. These materials have been widely disseminated and have

resulted in substantial improvements in English language support for ethnic minority pupils. Further developments in partnership teaching and development of good practice generally in tackling the language and other needs of minority ethnic groups are being promoted with support from grant paid under the European Community's SOCRATES Education Programme.

89. The United Kingdom Government is supporting a new £6 million project from 1995 to 1996 from its programme of Grants for Education Support and Training (GEST). This is targeted on the needs of bilingual pupils from ethnic minority backgrounds. In particular, it provides mainstream class and subject teachers with in-service training to equip them to develop pupils' English language skills across the curriculum and to help raise standards of achievement. A similar level of resources is available for 1996 to 1997.

Racial discrimination in education

90. The Race Relations Act 1976 makes it unlawful to discriminate against a person on racial grounds in a number of fields, including education. The Act applies to all educational institutions. In 1989 the CRE published a Code of Practice for the Elimination of Racial Discrimination in Education which makes it clear that racial discrimination has no place in the education service and reminds schools, colleges, governing bodies and local education authorities of the importance of working towards the promotion of equality of opportunity for all ethnic groups.

91. The new "Framework for the inspection of schools", with which all Registered Inspectors of schools are required to comply, sets out a number of characteristics which can lead to a school being judged as failing or likely to fail to provide an acceptable standard of education. High levels of racial tension or harassment are included among these characteristics. There are powers for local education authorities and the Secretary of State for Education to intervene in order to help remedy problems in failing schools.

Higher education

92. Some ethnic minority students, though possessing valuable experience and potential, lack the traditional qualifications necessary for entry to higher education. Access courses are playing an increasingly important part in meeting their needs. Following the publication of the White Paper, Higher Education: Meeting the Challenge in April 1987, the United Kingdom Government supported the establishment of a national framework for the recognition of access courses. This gave further impetus to the development of such courses and to the admission of their students to higher education.

93. There are now over 1,200 access courses all of which are, or soon will be, within the national framework of recognition. Many courses are based in areas with high ethnic minority populations and a number are specifically targeted at ethnic minority students. There are 60 courses intended to attract people specifically into teaching and some of these are targeted specifically on ethnic minorities.

94. Under the Further and Higher Education Act 1992, the Further Education Funding Council has a duty to secure adequate provision of courses for adults,

including courses to "improve the knowledge of English of those for whom English is not the language spoken at home". The strategic plan of the Further Education Development Agency for 1995 to 1998 includes helping to improve access and participation in further education for learners of all backgrounds.

Teachers from ethnic minorities

95. The United Kingdom Government has adopted a range of measures to encourage people from ethnic minority backgrounds to consider a career in the teaching profession. Teacher recruitment publicity, which is now the responsibility of the Teacher Training Agency (TTA), continues to target ethnic minority teachers. The TTA also supports events and projects aimed at encouraging recruitment of ethnic minority students, and disseminates good practice.

96. Funding is given to "Teacher Taster" courses which are designed to offer suitably qualified and mature people up-to-date information on teaching opportunities as well as practical experience on what it is like to teach in a classroom setting. People from ethnic minority backgrounds are especially welcomed on these courses. Funding is also directed towards local projects aimed at encouraging recruitment of pupils from ethnic minority backgrounds into teaching.

School exclusions

97. The Department for Education and Employment recognizes that there is continuing evidence that African/Afro-Caribbean pupils, mainly boys, are disproportionately excluded. The Department has no up-to-date figures: the latest information on the number of permanent exclusions, for 1993/94, does not include details of ethnic origin. However, since January 1996 the Department has been collecting data on permanent exclusions from the annual Schools' Census, including the ethnic origin of excluded pupils. The information collated in 1994/95 is currently being analysed and will be available later this year.

98. The Department's guidance in Circular 10/94 "Exclusions from school" stresses the need for schools to apply disciplinary procedures objectively and consistently across all cultural groups, and reminds head teachers that failure to do so could constitute unlawful racial discrimination under the Race Relations Act 1976. The Department is supporting several projects under a £18 million programme of grants over the next three years to help schools deal with discipline problems. The aim of reducing the number of exclusions among ethnic pupils is an important element in a number of these projects.

(e) Subparagraph (vi) - Cultural activities

99. In the United Kingdom special provision is made, wherever possible, to ensure that minority communities enjoy equal participation in cultural opportunities, such as radio and television broadcasts.

100. The thirteenth periodic report referred to the Broadcasting Act 1990 which was introduced to provide opportunities for communities of all kinds to

have access to broadcasting stations, offering programme material designed to meet their specific tastes and interests. There was widespread recognition that many communities considered that their needs were not being addressed by the existing set of services, whether culturally, linguistically, musically or in some other way. The Act provided for an expansion in the range and diversity of services, appealing to a variety of tastes and interests.

101. A number of cable and satellite television channels have been set up which serve Turkish, Greek, Asian, Afro-Caribbean and Arabic communities and there are 10 radio stations serving ethnic minority communities 24 hours a day. The Broadcasting Act 1996 came into effect in July and sets out a new regulatory framework to allow the development of digital terrestrial broadcasting. The introduction of digital terrestrial television will increase the number of channels available and will increase further the opportunities for local and community broadcasting.

F. Article 6 - Protection and remedies against racial discrimination

Commission For Racial Equality (CRE)

102. Information about the structure and role of the Commission for Racial Equality is contained in part 2 of the sixth periodic report. A copy of the CRE's Annual Report for 1995 is attached at annex 10. This provides further details of the CRE's legal status, role, membership and procedures as well as an indication of the range of activities and initiatives undertaken in this year.

103. The United Kingdom Government strongly supports the CRE in its dual role of combating racial discrimination and promoting good race relations, and works very closely with it. While the CRE has a clear role to take action under the Race Relations Act 1976 wherever discrimination exists, it is also keen to emphasize constructive cooperation and dialogue with both the public and private sectors. Since 1994 it has launched a number of high-profile publicity campaigns covering, for example, racial harassment, the media and racism in football. In June 1994 it launched a major three-year public information campaign in association with the advertising company, Saatchi and Saatchi, and in March 1995 it coordinated the United Kingdom's contribution to the Council of Europe's European youth campaign against racism, xenopnobia, anti-Semitism and intolerance under the banner "All Different All Equal".

Industrial tribunals

104. Complaints relating to discrimination in employment are dealt with by industrial tribunals. The Committee requested further details on the role and function of tribunals, which is included at annex 11. The detailed information required on complaints and sentences relating to acts of racial discrimination is included in tables at annex 12.

Incorporation of the Convention/Bill of Rights

105. The United Kingdom Government has noted the Committee's views on the nature of the legal framework prohibiting racial discrimination in the United Kingdom. The nature of this legal framework reflects the nature of the

long-standing constitutional arrangements which operate in the United Kingdom, based on the principle of parliamentary sovereignty. Under these arrangements, it is for the democratically elected Parliament of the country to enact detailed matters on the rights and freedoms of the individual. In doing so, it must, of course, have regard to the United Kingdom's international obligations. Nevertheless, the final decision on such matters remains with Parliament.

106. Incorporation of this or other conventions, or a free-standing bill of rights, would transfer this final responsibility to the judiciary, effectively enabling them to strike down legislation made by Parliament, and would fundamentally change the nature of the constitutional relationship between Parliament and the courts. The United Kingdom Government considers the existing safeguards and remedies which protect individuals against racial discrimination to work well and does not consider that it would be justified in making such a fundamental change to the United Kingdom's constitutional arrangements in the absence of a clear case for that change.

G. Article 7 - Promoting tolerance and understanding

Ethnic diversity in the school curriculum

107. The School Curriculum and Assessment Authority, which advises the Secretary of State for Education and Employment, is required, in exercising its functions, to take account of the ethnic and cultural diversity of British society and the importance of promoting equal opportunities for all pupils, regardless of ethnic origin or gender. It is important that the curriculum should be delivered in ways which stimulate and challenge all pupils, whatever their ethnic origin or social background. The individual subject orders are designed to provide teachers with the necessary flexibility for that purpose.

Foreign languages

108. The Education Reform Act 1988 provided for modern foreign languages to be included as a National Curriculum foundation subject for all pupils aged 11 to 16. The languages eligible to be a foundation subject are 8 working languages of the European Union - Danish, Dutch, French, German, Modern Greek, Italian, Portuguese and Spanish - and 11 other languages of cultural and commercial importance - Arabic, Bengali, Gujerati, Hindi, Japanese, Mandarin or Cantonese Chinese, Modern Hebrew, Punjabi, Russian, Turkish and Urdu.

109. Schools may offer any of the 11 non-EU languages to meet the National Curriculum requirements provided that they also offer at least one of the EU languages. Pupils then choose from the foundation languages on offer: they do not have to study an EU language. Schools are also free to offer other languages as a second or subsequent language after they have met the National Curriculum requirements. Ethnic minority students may therefore choose to study their mother tongue, in preference to the EU language offered by the school, if a school is able to offer it as a foundation subject. Where a choice of foundation language is offered, schools are expected to take parental preference into account.

110. The development of cultural awareness and an understanding of the perspectives, experiences and social conventions of the countries and communities where the target language is spoken are important aspects of the National Curriculum Programmes of Study for modern foreign languages.

Broadcasting

111. Paragraphs 100 and 101 above describe developments within the broadcasting service to meet the cultural needs of ethnic minority communities. It is recognized that broadcasting services offer a powerful means of developing a degree of harmony and understanding through common social, community, musical and other interests. As a result, United Kingdom legislation has provided for an expansion in the range and diversity of services, appealing to a variety of tastes and interests.

H. Article 14 - Right of individual petition

112. The United Kingdom Government has noted and carefully considered the Committee's view that it should make a declaration under article 14 of the Convention. However, it does not believe that the making of such a declaration, which is optional under the Convention, would significantly enhance the nature of the existing legal framework for protecting the individual from racial discrimination in the United Kingdom. The overall effect of the various remedies, which include compensation, available within the United Kingdom under both domestic and international law, including through the right of individual petition under the European Convention on Human Rights, is already considerable.

II. THE CROWN DEPENDENCIES

Legislation to implement the Convention

113. In relation to the Crown Dependencies dealt with in this part of the present report, the Committee's attention is drawn to the introductory paragraph ("Incorporation of the Convention: general comment") of Part III of this report, dealing with the United Kingdom's dependent territories overseas. Though the recommendation of the Committee to which that paragraph responds was made expressly in relation to the dependent territories overseas, it was no doubt intended to apply also in relation to the three Crown Dependencies, and what is said in that paragraph should therefore be regarded as equally applicable, mutatis mutandis, to the position in the Crown Dependencies. Specifically, the Committee will wish to know that the authorities of each of the Crown Dependencies has been asked to consider the introduction of appropriate legislation against racial discrimination and that request is currently under consideration by the authorities of each of the Crown Dependencies.

A. Guernsey

114. Save as is indicated below, the position as regards the implementation of the Convention in the Bailiwick of Guernsey remains substantially as

previously reported. However, the following paragraphs describe some more recent relevant developments and seek to give an overview of the current situation in relation to the Convention.

115. Demographic information. The population of the Bailiwick (61,739 at the 1991 Census) is predominantly of European origin. There is no statistical information on the racial characteristics of the population of the Bailiwick, but ethnic groups, and particularly Afro-Caribbeans, Asians (Indians, Pakistanis, Bangladeshis and Thais) and Africans, form a very small percentage of the population. Information on place of birth was elicited in the 1991 Census and is given in the table below. However, place of birth is not a reliable indication of race, and most of the persons whose place of birth is shown to be in Asia or Africa are persons of European origin who have moved their residence to Guernsey.

1991 Bailiwick of Guernsey population census: number of enumerated residents by place of birth

	Number	% of population
Guernsey, Alderney and Sark	39,446	64.00
Jersey	459	.7
England	15,444	25.00
Scotland	1,336	2.16
Wales	669	1.00
Northern Ireland	606	1.00
Republic of Ireland	385	.60
Other EC countries	1,792	3.00
EFTA countries	176	.30
Other European countries	352	.55
Middle East countries	24	.04
Asian countries	295	.45
Australia and Pacific countries	168	.30
Americas	252	.40
Caribbean countries	73	.10
African countries	272	.40
	61,739	100.00

Article 1

116. Although the Convention has been applicable to the Bailiwick of Guernsey since 1969, it has not so far been found necessary to translate its provisions into local legislation. The Convention does not of itself form part of the law of the Bailiwick and its provisions cannot be invoked as a direct source of legal rights and duties. But in interpreting local laws the courts in any case of doubt would have due regard to relevant international obligations, including, where appropriate, those of the Convention.

Article 2

117. Although the enactment of specific anti-racial discrimination legislation has been found to be unnecessary, the Government of Guernsey nevertheless is fully supportive of the aims and objectives of the Convention

and condemns racial discrimination in all its forms. To this end Government departments involved with persons of different races or countries of origin, either as residents or tourists, have adopted specific policies to discourage and eliminate any form of racial discrimination or prejudice.

118. The Customs and Immigration department administers the Immigration Acts 1971 and 1988 and the British Nationality Act 1981, which have been extended to the Bailiwick by Order in Council. This legislation requires officers to carry out their duties without regard to race, colour or religion, but, inevitably, this legislation by its very nature does discriminate on the grounds of nationality. Immigration and Customs Officers are sent to training courses in the United Kingdom where they learn to deal with such matters as race relations, cultural differences and social conditions in various parts of the world. The lessons learnt are brought back to the department and become part of the office culture. The end result is that, both by policy and by practice, the Customs and Immigration department provides a service as efficiently as possible without regard to race, colour or religion. Consequently, no substantiated complaints of racial prejudice have ever been made against the department.

119. The police force maintained by the Government of Guernsey is established and trained along the lines of United Kingdom Police Forces, and as a matter of policy is an equal opportunities employer with no debarment on grounds of race, colour, sex or ethnic origin placed upon any potential member of staff, except that he/she must be a British subject. Whilst no requirement exists in local legislation to promote racial equality, all police officers at all grades attend training courses in the United Kingdom where training emphasis is placed upon equal opportunities, the elimination of all forms of discrimination and the promotion of the Police Service as an equal opportunity employer. In addition, as an increased number of persons of Portuguese origin have registered for employment in the Bailiwick, a representative of the Portuguese community is employed to provide an input into local training courses. Persons detained in custody by the police enjoy exactly the same rights and privileges irrespective of their ethnic or social background, and where necessary an interpreter service is provided free of charge.

120. The fire brigade policy is to secure equality of opportunity and prevent discrimination on the grounds of race, sex or other irrelevant factors in recruitment or career development, and to take such action as is necessary to prevent any member of the fire brigade from actively discriminating against another on the grounds of sex, colour or nationality.

121. The government of Guernsey maintains a 78-place prison opened in 1989 where the prison officers are committed to a policy of racial equality and to the elimination of discrimination in all aspects of the work of the prison. This policy includes opposition to any display of racial prejudice, either by word or conduct, by any officer or inmate in their dealings with other persons. The local Prison Service is structured, and officers are trained, along the lines of the Prison Service in the United Kingdom.

122. The government of Guernsey provides acute, mental, long-stay and community health services. Although there are no specific policies or administrative measures relating to racial discrimination in this field, the

Government is committed to equality of access to health care, regardless of race, and does not prevent the recruitment of suitably trained or experienced personnel on grounds of race.

Article 3

123. The idea of racial segregation is repugnant to virtually all residents of the Bailiwick of Guernsey, who would not countenance either its practice or any incitement to it. The population is an aware and articulate people who value their freedom of expression and their democratic system of government. They state their views uninhibitedly at public meetings, in local publications, on local radio or through other media forums, unrestricted by official controls.

Article 4 (a)

124. Whilst the Bailiwick has at present no specific race relations legislation, that does not mean that the law is not available in various fields for dealing with racial problems. The comments in paragraphs 125 to 130 below relate essentially to public order offences which may have an element of "race" in them.

125. The common law of Guernsey is the basis of judicial procedure in the island and its application by the judges is considered to be sufficient to address effectively the problems at which the Convention is aimed. Generally, therefore, specific legislation in a particular area is unnecessary. For example, a criminal charge of disorderly conduct (a common law offence) is considered to be sufficient to deal with the various types of public order offences involving racial attacks, whether verbal or physical, with which the Convention is concerned. The common law is mutable and, when it is applicable, will change, by judicial application, to meet changing problems in society.

126. However, with regard to article 4 (a) of the Convention, there are two pieces of legislation which are relevant.

127. First, section 26 of the Telecommunications (Guernsey) Law 1972 relates to the improper use of the telephone and particularly makes it an offence, for which the maximum term of imprisonment is 12 months, to send any message or other matter that is grossly offensive or of an indecent, obscene or menacing character.

128. Second, section 1 (c) (ii) of the Summary Offences (Bailiwick of Guernsey) Law 1982 makes it an offence for a person in any public place to behave in a disorderly manner; whilst section 1 (i) of that Law provides that a person who in any public place or at any public meeting uses threatening, abusive or insulting words or behaviour, or distributes or displays any writing, sign or visible representation which is threatening, abusive or insulting, with intent to provoke a breach of the peace or whereby a breach of the peace is likely to be occasioned, shall be guilty of an offence. In both cases, a convicted person is liable to a fine, not exceeding £400, and/or to imprisonment for which the maximum term is three months.

129. In addition to these statutory offences, there are three further common law offences which are relevant, namely, behaving in a disorderly manner, conducting oneself in a manner by which a breach of the peace is actually occasioned and conducting oneself in a manner likely to cause a breach of the peace. It will be noted that the wording of the third of these common law offences is similar to that of section 1 (i) of the Summary Offences Law of 1982 and it is this particular common law offence which is of the greatest assistance in dealing with offensive, insulting or menacing behaviour which does not actually lead to a breach of the peace or an assault. In conjunction with the further common law offence of affray, the position in Guernsey seems to be very similar to that which obtains in the United Kingdom by virtue of Part III of the Public Order Act 1986 and sections 4 and 5 of that Act. The interpretative statement which the United Kingdom entered in respect of article 4 of the Convention is of course relevant in this context and also in the context of articles 4 (b) and 4 (c).

130. A constable has the power to arrest without warrant anyone committing any of the offences referred to above; in the case of the common law ones, punishment, at least in the Royal Court, is unlimited; and it can be anticipated that the courts would take into account any aggravating circumstances involved in the offence, particularly those of a racial, etc. nature. The court has power to order compensation of up to £2,000 to be paid by the convicted person to the victim where the latter has suffered either violence or insulting or threatening etc. conduct.

Article 4 (b)

131. There is no Bailiwick legislation which specifically declares illegal and prohibits organizations which promote or incite racial discrimination. The government of Guernsey is certain that there are no such organizations in the community.

Article 4 (c)

132. The Bailiwick of Guernsey is served by the Independent Television network of the United Kingdom, by the BBC national television and radio networks, and by two local radio stations. These are all licensed by the appropriate United Kingdom authorities and as such have to comply with United Kingdom legislation on matters of race and racial discrimination. This ensures that these media outlets do not promote or incite racial discrimination.

Articles 5 and 6

133. Everyone residing in the Bailiwick of Guernsey is regarded as equal before the law. However, the government of Guernsey administers legislation which discriminates in favour of Guernsey-born residents in relation to both residential status and employment. This is the Housing (Control of Occupation) (Guernsey) Law, 1994 and the Right to Work (Limitation and Proof) (Guernsey) Law, 1990.

134. The former law seeks to retain all local housing stock, except for a specified number of houses (open market properties), for local residents.

Non-local residents may occupy the open market properties without restriction, but may occupy local housing stock only under licence which is granted if the person concerned is considered essential to the economic life of the island. The provisions of the law confirm that racial discrimination does not apply to the distinctions between local and non-local residents. The law makes distinctions between citizens and all non-citizens of Guernsey solely in relation to the ability to occupy local housing stock, and in its administration in relation to non-citizens there is no discrimination against any particular nationality.

135. The latter law requires each employee in the island to have a right to work certificate related to his residential status. This law applies equally to local and non-local residents and contains no clauses which could be regarded as racially discriminatory in nature.

136. In the employment sector generally, the government of Guernsey, through its advisory, conciliation and arbitration service, maintains close contact with employers and employees to promote good industrial relations in an atmosphere free from any form of racial discrimination. Portuguese immigrant workers all receive a written statement of the main terms and conditions of employment, in their own language, before arriving to work in the Bailiwick. In addition, bilingual educational literature to assist Portuguese seasonal workers in the horticultural industry is regularly produced. The government is strongly supportive of good standards of behaviour and provision concerning the rights of the seasonal labour force, and regularly monitors the welfare and conditions of this horticultural workforce.

137. Existing employees (as opposed to prospective employees) are protected, as far as equal conditions of employment are concerned, by the Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993. If, for example, an employee was paid less than a colleague because of his race, the law would empower him to raise that disparity as an industrial dispute before the Industrial Disputes Officer and, ultimately, the Industrial Disputes Tribunal, the latter having the power to make awards in respect of any industrial disputes referred to it and to declare the date from which an award shall take effect.

138. The new Unfair Dismissal Law, the principles of which have been approved by the States, will enable a person who alleges he has been dismissed on racial grounds to make a complaint to an Adjudicator who will also have power to make awards. Those who are dismissed unlawfully already have the civil right to obtain redress through the Court, but the basis for that is an alleged breach of contract rather than racial discrimination.

139. Prospective employees do not currently have any protection under local legislation. The new Sexual Discrimination Law, the principles of which have also been approved by the States, will provide for redress for those who successfully complain that they have not been given employment on the grounds of gender; they will have similar grounds of complaint in respect of promotion.

140. The Insular Authorities will consider whether it would be possible to extend the ambit of the proposed Sexual Discrimination Law to relate to racial as well as sexual discrimination with regard to prospective employees.

141. The government of Guernsey administers the following social security legislation: the Social Insurance (Guernsey) Law 1978; the Family Allowances (Guernsey) Law 1950; the Supplementary Benefit (Guernsey) Law 1971; the Health Service (Benefit) (Guernsey) Law 1971; the Attendance and Invalid Care Allowance (Guernsey) Law 1984. None of these laws, nor the Travelling Expenses Assistance Scheme nor the Medical Expenses Assistance Scheme, discriminates in any way against any person on grounds of race, colour, ethnic origin or religion; entitlement to benefits is related solely to the satisfaction of either contribution conditions or residence conditions.

142. Everyone residing in the Bailiwick of Guernsey also enjoys rights of access to any place or service intended for use by the general public.

Article 7

143. Education is compulsory for all children from the ages of 5 to 15 years inclusive under the provisions of the Education (Guernsey) Law 1970. The government of Guernsey maintains 23 schools for primary education, 10 schools for secondary education, plus a College of Further Education which also provides evening adult education courses. In addition, three schools provide for children with special education needs and the Government also issues substantial grants to Bailiwick students who embark upon higher education courses at colleges and universities in the United Kingdom. Education in the Bailiwick is structured along lines similar to those in the United Kingdom.

144. The government of Guernsey's objective is to ensure that all children and students receive an education that meets the individual needs of all pupils, with an emphasis upon a sympathetic awareness of difficulties which might arise from differences of gender, culture or background. As Bailiwick children do not live in a multiracial society, pupils are encouraged to obtain knowledge and understanding of the issues surrounding equal opportunities, including opportunities in relation to gender, discrimination and other cultures and faiths. Pupils are taught that effective relationships apply to all members of the community, irrespective of status, race, gender or ability, and that this can only be achieved through mutual trust and respect.

145. The Bailiwick has no significant community of any particular ethnic group other than its "indigenous" population. Children from a small Portuguese community, and from family groups coming from mainland Europe and from Asia, who are in primary education are, however, given concentrated language support centred in one school so that they rapidly acquire sufficient English to gain access to the whole curriculum. Pupils in secondary education are given concentrated English language tuition on an individual basis for the same purpose.

146. Teachers are recruited on ability, without regard to race, colour or creed.

147. The government of Guernsey also seeks to protect children through aspects of its welfare service. Legislation in this area is as follows: the Children and Young Persons (Guernsey) Law 1967 (as amended); the Child Protection (Guernsey) Law 1970; the Adoption (Guernsey) Law 1970; the Children and Young Persons (Regulations on Boarding Out) Ordinance 1968.

148. The government of Guernsey's policy is to promote the welfare of children and young people in partnership with families and other agencies, and to provide a service within a legal framework which will protect them. In pursuing this policy every effort is taken to avoid discriminatory practice in any of its forms, the provision of resources being made on the basis of the needs of a child, young person or its family irrespective of race, colour, descent or national or ethnic origin. Policies with regard to adoption ensure that account is taken of the child/young person's race, colour and ethnic origins. Staff recruitment is based on skills and abilities irrespective of race, colour, descent or ethnic origin.

149. This policy of non-discrimination extends also to tourism where persons of different nationalities are employed, and to recreation where sports teams from the Bailiwick have participated in multiracial events at local, national and international levels.

B. JERSEY

150. Save as appears from what is said below, the position as regards the implementation of the Convention in Jersey remains substantially as previously reported. However, the following paragraphs describe some recent relevant developments and seek to give an overview of the current situation in relation to the Convention.

151. Demographic Composition of the Population. The figures from the 1996 population census for Jersey show the total population of Jersey to be 84,082. Of that number 44,886 were born in Jersey, 31,580 elsewhere in the British Isles, 924 in France, 4,580 in Portugal, 942 in other European Union countries and 2,238 elsewhere.

152. Definition and extent of the problem locally. The definition of "racial discrimination" in article 1 (1) of the Convention is very broad, and it is accepted that even the most sophisticated societies have some form of discrimination. However, it is the fact that some communities, because of particular social, historical, political and other factors, will experience more acute and overt forms of discrimination than others. Whilst it cannot be said that Jersey has not experienced any problems at all with regard to racial discrimination (as defined in art. 1 (1)), the extent and acuteness of the problem there is less marked than in some other countries. For example, only one case of alleged racial harassment was brought to the attention of the Industrial Relations Officer during 1995. The most recent figures produced by the States of Jersey Police Service indicate that, in 1994, for the four months when records relating to what was defined as racial abuse were kept within the Service, five cases were recorded. In 1995, eight incidents which fell within this category were recorded, one of which was subsequently withdrawn. Of these, only one was known to be an assault allegedly perpetrated by a local youth on a foreign national. In one case the assailant

was unknown. The remaining five cases all involved assaults upon African, Portuguese or other European persons by Asian, Portuguese or other European assailants.

153. Policy on elimination of racial discrimination. Jersey has not to date found it necessary to enact legislation specifically directed at racial discrimination. Historically, Jersey has relied upon its existing laws, particularly the criminal law, in this area. However, the States of Jersey are committed to the principles of the Convention and can be expected to take whatever action is found to be necessary to ensure that those principles are observed.

Article 2

154. Although Article 2 (1) (a) of the Convention refers separately to national and to local authorities and institutions, it is considered to be artificial to draw any such distinction in a territory the size of Jersey. No authorities in Jersey have any discriminatory policies and racial discrimination by any person or organization is not sponsored, defended or supported by authorities at any level. Reviews of policy and legislation can be carried out as a matter of practice and do not of themselves require specific legislation. Given that the insular authorities accept the broad implications of the condemnation of racial discrimination explicitly expressed in this article, it follows that they accept that integrationist, multiracial organizations should be encouraged and that racially divisive forces should be discouraged. These objectives can be and are implemented by policy and practice and do not require legislation. Article 2 (2) of the Convention calls upon States parties to take positively discriminatory steps where appropriate. If, at any time, a convincing case were to be made to the insular authorities that circumstances in the island warranted the taking, in the social, economic, cultural and other fields, of special and concrete measures of that kind to ensure the development and protection of racial groups or of individuals belonging to them, the insular authorities could of course give serious consideration to it. But up to the present it has not been considered to be necessary to introduce any such measures. If any were found to be necessary, then it is hoped that the objectives sought could be achieved through changes in policy and practice rather than through legislation, but it is also recognized that consideration may need to be given to the enactment of appropriate legislation to meet the requirements of the Convention.

Article 3

155. There is of course no policy of racial segregation and/or apartheid in Jersey and these practices do not exist there.

Article 4

156. It is of course the firm view of the insular authorities that any kind of racist propaganda should be grossly offensive to decent people and that those who propagate racist ideas should be regarded by the wider community as being an aberrant minority. However, in the light of the interpretative statement relating to article 4 of the Convention that was made by the

United Kingdom when it ratified the Convention, it is the considered judgement of the insular authorities, having regard to the matters referred to in article 4 (and in particular the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association), that no further legislative measures, in addition to existing Jersey law and practice, are required in order to give effect in Jersey to the provisions of article 4 (and specifically paras. (a), (b) and (c) of that article).

157. This said, the following features of Jersey law, relevant to article 4 of the Convention, must be noted. Acts of violence, or incitement to such acts, against any race or group of persons of another colour or ethnic origin would be a criminal offence under the law of Jersey, whether directed against any particular race or not. Racial motivation would be treated as an aggravating factor. Incitement to carry out such an act would also be an offence if the act incited were to be carried out, or if the incitement resulted in circumstances likely to lead to a breach of the peace. The financing of an act definable under Jersey law as an offence (such as breach of the peace) would constitute aiding, assisting or participating in the said criminal act; this would render the person financing the act liable to prosecution.

158. It is also relevant to the observance of article 4 of the Convention that public authorities or institutions in Jersey at an island-wide level and at parish level are subject to scrutiny by other bodies. The States Police, for example, are accountable to the Defence Committee, and the Honorary Police of each parish are accountable to the Attorney General. There are in fact no policies or programmes of activity in place which are overtly racist. If such a policy or practice were drawn to the attention of the relevant governing authority, that body would be in a position to take any necessary action.

Article 5

159. Paragraphs 160 to 163 below deal with certain aspects of the rights set out in article 5 of the Convention.

160. The rights set out in paragraphs (a), (b), (c) and (d) of article 5 are enjoyed by all persons in Jersey. It should be noted that, in conformity with article 1 (2) of the Convention, the right to stand for election to the States is restricted to British subjects. The Franchise (Jersey) Law 1968 formerly provided that a person was not entitled to be registered or to vote as an elector in a public election if he was not a British subject or a citizen of the Republic of Ireland. However, amending legislation (the Franchise Amendment Number 5 (Jersey) Law 1995) has recently extended the franchise to all foreign nationals.

161. As regards article 5 (e) (i) of the Convention (employment), while Jersey has at present no law dealing with racial discrimination in this field, it can be reported that only one case of alleged racial harassment was brought to the attention of the Industrial Relations Officer during 1995. The latest information from the Industrial Relations Advisory Service in Jersey is that, over the last 2½ years, there have been six cases of alleged harassment of a racial nature reported to the Service. The Industrial Relations Advisory Officer has indicated that the number of reported cases is very small given

the number of non-native workers in the island. The figures collected show that referrals to that department involving alleged racism constitute only 0.15 per cent of the overall total of such referrals. It is acknowledged that there may have been other incidents of racism which were not reported but there is no evidence to suggest that this is the case.

162. As regards article 5 (e) (iii) of the Convention (housing), article 19 of the Wills and Successions (Jersey) Law 1993 now provides that, notwithstanding any rule of law or enactment to the contrary, the estate, whether moveable or immoveable, of a person dying testate or intestate shall devolve without regard to the nationality of

(a) The person so dying;

(b) Any beneficiary; or

(c) Any person through whom a beneficiary claims.

However, the acquisition of land by purchase or lease, and the occupation of dwelling accommodation, remain subject to the provisions of the Housing (Jersey) Laws 1949 and the Regulations made thereunder. But although the right to acquire or occupy housing is restricted by regulation 1.1 (a) of the Housing (General Provisions) (Jersey) Regulations 1970, this does not differentiate between persons on any of the grounds set out in article 1 of the Convention, but differentiates solely by reference to place of birth. Accordingly, a person who was born in Jersey and satisfied the requirement relating to period of residence would acquire a residential qualification regardless of his race, colour, descent or national or ethnic origin. It has been accepted by the European Commission of Human Rights that this legislation pursues a legitimate aim which is necessary for the economic well-being of Jersey and for the protection of the rights and freedoms of others, and that the system thereby created is capable of operating in conformity with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

163. As regards article 5 (e) (iv), (v) and (vi) and article 5 (f), it can confidently be stated that, to the extent that the facilities in question are provided by public authorities in Jersey, there is access to them on equal terms by all persons, without any distinction as to race, colour or national or ethnic origin. Though there is not at present any relevant provision of law bearing on the provision of such facilities by private persons or institutions, the insular authorities have no evidence to suggest the existence of any problem relating to such discrimination in the private sector either.

Article 7

164. Public awareness of the need to combat racial discrimination, and the other objectives identified in article 7 of the Convention, are of course most likely to be furthered by the active provision by the authorities of the relevant information within the public domain. With regard to all existing international conventions, covenants and agreements, the Office of The Chief Adviser to the States of Jersey has for some time been researching the

position of the Bailiwick; that process has proved to be lengthy and time-consuming. It is intended, once the process is complete, to place a copy of the file in the Public Library. This, it is submitted, will constitute an important step towards increasing public awareness.

165. In addition, the insular authorities recognize that the educational policies and practices of today shape the minds of those who will constitute the future adult population and that, whilst the application of article 7 is much broader in scope than the sphere of compulsory education of the young, a powerful way to shape the views of society is to address it through the schools. Accordingly, as a matter of policy, the Education Committee in Jersey has introduced measures in schools to give equal opportunities to children and young people of different ethnic origins. Teacher training has been adapted to provide awareness of racial issues, and extra staff have been made available to give additional language tuition. The measures adopted by the Education Committee include the following:

(a) Close cooperation with the Portuguese Government and Consul, resulting in a combined effort to support Portuguese students in schools and the appointment of four Portuguese teachers, along with four peripatetic local teachers, with responsibility to help pupils whose first language is not English;

(a) The celebration of other cultures in schools;

(c) The establishment of a policy for equal opportunities in the curriculum;

(d) The adoption of the Establishment Committee policy for equal opportunities in employment;

(e) The introduction of written material, toys and education equipment to support good practice in equal opportunities;

(f) The incorporation of equal opportunities requirements in National Vocational Qualification assessment;

(g) The inclusion of relevant themes in personal and social education lessons and religious education.

C. The Isle of Man

166. Save as appears from what is said below, the position as regards the implementation of the Convention in the Isle of Man remains substantially as previously reported. However, the following paragraphs describe some recent relevant developments and seek to give an overview of the current situation in relation to the Convention.

167. Demographic information. There is no data available giving a breakdown of the ethnic characteristics of the population of the Isle of Man. However, the table below shows the Isle of Man population by country of birth, taken from the last complete census which was conducted in 1991. The figures reveal that over 96 per cent (67,513) of the island's total population

(69,788) were born in the British Isles. Furthermore, 3 per cent of the remaining 4 per cent of the population were born either in Europe or in countries whose populations are predominantly of European descent. The 1991 census also revealed that a total of 643 people are able to speak Manx Gaelic, although the last person to whom the language was a mother tongue died in 1975.

Place of Birth	Number
Isle of Man	34,608
England	26,541
Wales	795
Scotland	2,291
Northern Ireland	1,611
Republic of Ireland	1,667
Other EU country	421
Other Western European country	89
Eastern European country	30
Other European country	70
Central Asia	27
South-East Asia	254
Far East	153
Middle East	47
North Africa	26
Other Africa	386
North America	248
Central America	98
South America	25
Former Soviet Union	8
Australia and New Zealand	179
Oceania	2
Other	26
Total	69,788

Article 2

168. The Isle of Man government, which is an equal opportunities employer, does not itself discriminate in any of its activities or policies against any persons, groups of persons or institutions on grounds of race, colour, descent or national or ethnic origin, nor does any Manx law discriminate or authorize discrimination on any of those grounds. The Isle of Man government has not received any complaints or allegations of the existence of racial discrimination and there is no evidence of racial disharmony in the island. It has therefore not been considered necessary up to the present time to enact legislation specifically directed at racial discrimination. However, following a recent review, the Council of Ministers has agreed that there should be a full investigation into the need to introduce legislation which will give added protection to minorities and enhance their rights. The Social Issues Committee of the Council of Ministers is to conduct the investigation and make its recommendations to the Council of Ministers, following which legislation may be included in the legislative programme for 1998/99.

Article 3

169. The Isle of Man government unreservedly condemns any practice of apartheid or racial segregation, and no Manx law or policy of the Isle of Man government either creates or supports such a practice. No such practice in fact exists in the Isle of Man.

Article 4

170. The Isle of Man government condemns the production, publication and dissemination of racist propaganda of any kind and in particular propaganda which incites to racial hatred or the commission of racially motivated acts of violence. Any such acts of violence, and any incitement to commit them, are offences under Manx law. To strengthen the law in this area, a Public Order Bill is planned within the Isle of Man government's three-year rolling legislative programme. It is proposed that that bill should be based on the public order legislation of the United Kingdom and, in particular, on Part III of the Public Order Act 1986 which concerns incitement to racial hatred. The relevant law in the Isle of Man will then be similar to that of the United Kingdom. In the light of the interpretative statement relating to article 4 of the Convention that was made by the United Kingdom upon ratification of the Convention and having regard to the matters referred to in that statement (and also, of course, in article 4 itself), the Isle of Man government does not consider that any further legislative measures are at present necessary in the fields covered by paragraphs (a), (b) or (c) of article 4 for the attainment of the end specified in the earlier part of the article.

Article 5

171. All persons in the Isle of Man enjoy full equality before the law without any distinction as to race, colour, or national or ethnic origin. In particular, equality before the law, regardless of any such distinction, attaches to all the specific rights set out in paragraphs (a) to (f) of article 5 of the Convention. In connection with article 5 (b) (security of person and protection against violence), attention is drawn to the fact that, as reported in paragraph 170 above, the commission of an act of violence, or the incitement of another person to commit such an act, is a criminal offence under Manx law - and certainly no less so if that offence is racially motivated. In connection with article 5 (d) (viii) (freedom of opinion and expression), attention is drawn to the proposed public order legislation which, as also reported in paragraph 170 above, will deal with incitement to racial hatred. In connection with article 5 (e) (i) (employment), it is to be noted that section 52 of the Employment Act 1991 confers upon a person the right to claim unfair dismissal against an employer if he or she has been treated less favourably because of his or her membership of a particular racial group. In connection with article 5 (e) (iii) (housing), it is to be noted that there is no discrimination on grounds of race, colour, or national or ethnic origin in the government's allocation of public housing nor is there any discrimination in relation to the right to purchase immovable property.

III. THE DEPENDENT TERRITORIES

Incorporation of the Convention: general comment

172. In paragraph 10 of its concluding observations on the United Kingdom's twelfth periodic report under the Convention, the Committee expressed its concern that the Convention had not been incorporated in the domestic legislation of the dependent territories and could not be invoked in the courts, and in paragraph 15 it accordingly recommended that the Convention should be so incorporated. That recommendation was discussed, in terms expressly applicable to all the United Kingdom's dependent territories, in paragraphs 2-4 of the United Kingdom's thirteenth periodic report in respect of Hong Kong (CERD/C/263/Add.7 (Part II)), and the United Kingdom draws the Committee's attention, for the purposes of the present report, to the explanation of the position that was given there. It remains valid for all the territories covered by this part of the present report. However, the Committee's attention is particularly drawn to what was said in paragraph 4 of the thirteenth report cited above. In that context, the United Kingdom Government, having regard to the Committee's views, has invited the governments of all the dependent territories to consider the introduction of legislation substantially corresponding to the United Kingdom's own Race Relations Act 1976, as amended, and for that purpose has recently furnished them with draft model legislation, on the lines of the 1976 Act, which could be adapted by each of the territories to meet its own particular circumstances. It will be seen from the individual reports below, in respect of the several territories, that many of their governments have indicated their readiness in principle to proceed with the preparation of such legislation and that some of them have indeed completed or almost completed that process.

A. Anguilla

1. General

173. General information on the land and people of Anguilla, its general political structure and the general legal framework within which human rights are protected there and on information and publicity there relating to human rights is contained in document HRI/CORE/1/Add.62. The principal industry remains up-market tourism, although a significant offshore business services industry is being developed. Gross domestic product growth of 8.1 per cent was recorded in 1994 and growth continued despite hurricane damage in 1995.

174. With reference to paragraph 22 of Anguilla's core document ("The courts"), a judge has now been assigned by the Eastern Caribbean Supreme Court, on a permanent basis, to be shared by Anguilla and Montserrat.

2. Information relating to articles 2 to 7 of the Convention

175. Policy on elimination of racial discrimination. On 11 August 1993, the government of Anguilla and the Government of the United Kingdom agreed a "Country Policy Plan" which set out the major policy objectives and principal programme targets which the government of Anguilla has set itself in consultation with the Government of the United Kingdom. The Country Policy

Plan is stated to be a tangible instrument created to facilitate the new thrust in cooperation and partnership between the United Kingdom and its dependent territories in the Caribbean. This cooperation and partnership is aimed at promoting good government and self-sustainable growth and economic autonomy for Anguilla over the medium to long term.

176. The Country Policy Plan contains a section entitled "Principles guiding the administration of Anguilla". The principles include the following:

"- respect for the rule of law and fundamental principles enshrined in the Constitution, including the protection of fundamental rights and freedoms;

"- maintenance of international standards of human rights which reflect evolving international norms."

177. The bulk of the Country Policy Plan is made up of a "policy matrix" of detailed proposals for action over a three-year period across the spectrum of government activity, from agriculture to tourism, and contains a section entitled "International obligations". The policy matrix is reviewed each year and the latest version of this section (January 1996) includes the following: "... consider legislation on race relations to implement the International Convention on the Elimination of All Forms of Racial Discrimination" and "... continue to cooperate on preparing reports required under human rights treaties".

178. The government of Anguilla has noted the remarks of Mr. Ferrero Costa during the examination of the United Kingdom's twelfth periodic report (CERD/C/SR.997, para. 5) and those of Mr. de Gouttes (para. 19) that it is the Committee's doctrine that no State is exempt from the phenomenon of racial discrimination. Nevertheless, the fact remains that racial discrimination of the kind reported on by the United Kingdom in respect of Great Britain and Northern Ireland is not a problem in Anguilla.

179. Future economic development may bring with it demographic changes, as experienced by other Dependent Territories in the region. According to a recent Caribbean Development Bank brief on Anguilla, "a shortage of skilled labour in most areas is likely to be a continuing area of difficulty ... such shortages can be addressed through increased education and training and immigration; although the society will then need to face the now (in the region) familiar tradeoffs between growth, negative environmental effects, and an increasing proportion of foreigners in the population."

180. General legal framework. The general legal framework within which racial discrimination as defined in article 1 (1) of the Convention is prohibited and eliminated is that described in Part III of Anguilla's core document. In particular, sections 1 and 13 of the Constitution deal with protection from discrimination on grounds of race, etc.

181. Demographic composition of the population. The information contained in the core document is still accurate. The present population is estimated to be in the region of 9,000. Approximately 1,200 of these were born elsewhere in the Caribbean and about 800 in non-Caribbean countries. The last census

was held in 1992. The largest group of residing foreigners is from St. Kitts and Nevis: then, in descending order, the United States, the Dominican Republic, Jamaica and the United Kingdom. All Anguillians speak English and a very high percentage of the population do so as their mother tongue.

Article 2

182. Article 2, paragraphs 1 (a) and 1 (b), of the Convention are given effect to by section 13 (1) of the Constitution of Anguilla which in essence provides that no law shall make any provision which is discriminatory either of itself or in its effect and by section 13 (2) which in essence provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

183. Article 2, paragraph 1 (c), is given effect to by the regular review of Anguilla's Country Policy Plan and by the system of scrutiny of legislation. When any legislation is passed by the House of Assembly in Anguilla, the Attorney General and the Governor must be satisfied that it is proper for the Governor to assent to it. Laws or regulations which had the effect of creating or perpetuating racial discrimination would not receive assent and would in any event be unconstitutional. There is a further safeguard known as the "non-disallowance" procedure. Under this procedure, copies of all primary legislation enacted by the legislature of a dependent territory are sent by the Governor to the Secretary of State for Foreign and Commonwealth Affairs and the legislation is scrutinized by one of his legal advisers who will be familiar with the United Kingdom's obligations under the Convention. This procedure is not just a formality: requests for clarification are regularly made and, if necessary, a territory will be requested to amend the legislation in question.

184. As regards article 2, paragraph 1 (d), there is at present no legislation in Anguilla equivalent to the United Kingdom's Race Relations Act 1976. It may well be that racial discrimination by private persons, groups or organizations in Anguilla would give rise to a civil remedy in particular circumstances. However, it has hitherto been the view of the Government of Anguilla that the circumstances of Anguilla have not required legislation in this field. Nevertheless, the strong views expressed by the Committee during the examination of the United Kingdom's twelfth periodic report have been relayed to the Government of Anguilla and they have been asked to consider the need for such legislation. The United Kingdom has supplied all the dependent territories with copies both of the United Nations Secretariat's model legislation (A/48/558) and of a model law drafted specifically with their needs and legislative style in mind. The United Kingdom Government will keep the Committee informed of progress.

185. As regards article 2, paragraph 1 (e), organizations which promote friendship and understanding between races are encouraged and flourish in Anguilla, e.g. the Scouts, Rotary Club, Soroptimists and others.

Article 3

186. There are no reported instances of racial segregation or apartheid-type practices in Anguilla. However, the Committee's view that this article can apply to matters such as choice of school has been noted and the Government of Anguilla will continue to prevent such practices occurring in Anguilla. The model law which has been proposed to the dependent territories prohibits racial segregation as a form of racial discrimination.

187. The Government of Anguilla welcomes the dismantling of apartheid in South Africa. The legislation on South African sanctions, which had been extended to Anguilla, as to other United Kingdom dependent territories, has been revoked.

Article 4

188. As regards article 4 (a), acts of violence or incitement to such acts would of course constitute offences under the criminal law. It is not, however, an offence to disseminate ideas based on racial superiority or hatred or to provide assistance to racist activities, including the financing thereof. Likewise, there is no legislation proscribing racist organizations or participation in them, as set out in article 4 (b). However, a member of a racist organization might well be excluded from Anguilla on the ground that his presence was not conducive to the public good. Article 4 (c) is implemented by section 13 of the Constitution.

189. The Committee's views on the implementation of article 4 (a) and (b), set out most recently in General Recommendation XV and considered in detail in the examination of the United Kingdom's twelfth and thirteenth periodic reports, have been noted carefully. The situation in Anguilla is of course markedly different from that in the United Kingdom in that incitement to racial hatred and the activities of racist organizations, such as the British National Party, are notable by their absence. The interpretative statement made by the United Kingdom of course applies to Anguilla and it may be that legislation on these topics will be considered unnecessary or a low priority. However, the Government of Anguilla has been asked to give this matter full consideration and, in particular, to take into account the views of the Committee. If such legislation is enacted, it will be transmitted to the Secretary-General as requested in the Committee's decision 3 (VII).

Article 5

190. Section 1 of the Constitution and subsequent specific sections give effect to the provisions of article 5 (a), 5 (b), 5 (d) (v) and (vii)-(ix). Section 5 of the Constitution deals with article 5 (d) (i) and (ii). Other provisions in article 5 are dealt with by the general prohibition on discrimination in section 13 of the Constitution.

191. In addition, with respect to article 5 (e) (i), the Fair Labour Standards Ordinance 1988 prohibits an employer from terminating the employment of an employee on the grounds of, inter alia, "race, colour ...or ... national extraction... ." The Convention against Discrimination in Education, adopted by UNESCO in 1960, was extended to Anguilla with effect from 29 May 1964.

Article 6

192. Section 16 of the Constitution provides a remedy for contravention of its provisions on the protection of fundamental rights and freedoms. The High Court has original jurisdiction to hear and determine an application and may make such orders, issue such writs and give such directions as it may consider appropriate in order to enforce those provisions.

193. A complaint of discrimination in termination of employment is brought to the Labour Tribunal.

194. Individuals also have the right to submit petitions to the Governor, the Secretary of State and to Her Majesty The Queen.

B. Bermuda

195. Save as is indicated below, the position as regards the implementation of the Convention in Bermuda remains substantially as described in the United Kingdom's twelfth periodic report in respect of the territory. However, the following paragraphs describe certain significant new developments since the preparation of that report, and also provide some further information supplementary to it.

Further amendment of the Human Rights Act 1981

196. As was explained in the twelfth periodic report, in addition to the provisions in the Constitution of Bermuda (introduced in 1968) which prohibited, and provided enforceable remedies against racially discriminatory legislation or racially discriminatory acts by public officers or public authorities, the Human Rights Act 1981 rendered unlawful - and again provided appropriate remedies for, and enforcement machinery to prevent or terminate - racially discriminatory acts or practices by private persons or bodies in the areas of the supply of goods, facilities or services; accommodation; contracts; public notices; employment; or membership of organizations. In its application to racial discrimination - the Act also covered discrimination on other grounds, such as sex, marital status, religious beliefs or political opinions, etc. and it was amended in 1988 to cover discrimination on the grounds of disability - this legislation was broadly similar to the Race Relations Act 1976 of the United Kingdom.

197. The relevant provisions of the 1981 Act have now been further amended by the Human Rights Aamendment Act 1995 in the following respects:

(a) The Human Rights Commission, which was established by the 1981 Act as, inter alia, the principal enforcement agency to ensure compliance with its provisions on discrimination, is now further empowered to approve special programmes which are designed to assist disadvantaged persons or groups in achieving equal opportunity or to increase the employment of members of a group or class of persons because of the race, colour, nationality or place of origin of the members of that group or class;

(b) A new provision has been inserted in the 1981 Act which expressly prohibits the harassment of an employee in the workplace by his or her

employer or by the agent of the employer or by another employee, whether the harassment is based on race, colour, ancestry or place of origin;

(c) The provisions of the 1981 Act relating to remedies for unlawful discrimination have been amended to provide expressly that, where restitution is ordered by a board of inquiry following the reference by the Human Rights Commission of a complaint of unlawful discrimination, such restitution may include financial restitution for injury to feelings; and also that a person who claims to be the victim of unlawful discrimination may bring civil proceedings in respect of it (in the same manner as any other claim in tort) and that any award of damages made in such proceedings in respect of unlawful discrimination may include compensation for injury to feelings whether or not they include compensation under any other head;

(d) The criminal penalties that may be imposed following a prosecution for unlawful discrimination (or for disobedience to an order made under the Act by a board of inquiry) have been substantially increased: maximum fines have been increased five-fold and the maximum term of imprisonment has been increased from three months to three years.

198. In addition, the powers of the Human Rights Commission to investigate and, where possible, settle cases of alleged or suspected unlawful discrimination have been enhanced in various ways. Where, as a result of a reference by the Commission of a complaint of unlawful discrimination, a board of inquiry is established to investigate and adjudicate upon it, the Commission has been given the power to provide assistance (including advice or representation) to the complainant in the case.

The Commission for Unity and Racial Equality

199. The Commission for Unity and Racial Equality (CURE) was established by the Commission for Unity and Racial Equality Act 1994. It consists of up to 12 persons appointed by the Governor in accordance with the advice of the Premier after the Premier has consulted the Leader of the Opposition. Without derogating from the functions of the Human Rights Commission under the 1981 Act (see above), the principal functions of CURE (in the discharge of which it is responsible to the Minister of Education and Human Affairs) are:

(a) To promote equality of opportunity, and good relations between persons of different racial groups; and

(b) To work towards the elimination of racial discrimination and institutional racial discrimination.

200. A specific function of CURE is to issue, with the prior approval of the Minister and subsequently of both houses of the legislature, codes of practice containing practical guidance for the elimination of racial and sexual discrimination in the field of employment and for the promotion of equality in that field between persons of different racial groups and different sexes. In preparing the drafts of these codes of practice, CURE is required to consult, as appropriate, with organizations representative of employers or workers. More generally, CURE works with employers, trade unions and other institutions

to promote better race relations through education and the creation of social programmes designed to change behaviour and improve attitudes on racial issues.

201. In connection with CURE's function of preparing and issuing codes of practice in the field of employment, a working party, consisting of employers' organizations, unions and community groups with the assistance of the Department of Human Affairs, has completed work on a draft Code of Practice for Race Relations in the Workplace. The Code is designed to provide practical guidelines for the creation of equality of opportunity in employment and the removal of barriers that cause racial discrimination. It provides information under the following headings:

The responsibilities of employers

The responsibilities of individual employees

The responsibilities of trade unions

The responsibilities of employment agencies

The Code is currently being reviewed by CURE and is expected to be adopted by it before the end of 1996. It is the intention of the Bermuda government to monitor adherence to the Code in the community. Compliance will be reviewed after one year and, if necessary, the Bermuda government will not hesitate to make the Code legally binding.

Racial harassment or intimidation

202. In December 1995 the Bermuda Legislature enacted an amendment to the Criminal Code which created two new offences, racial harassment and racial intimidation. These offences involve the commission of any of certain specified acts with the intention of causing another person distress, fear or alarm and with the motivation of antipathy on account of the victim's (or some associated person's) race, colour or place of origin. The maximum penalty in each case is a fine of $5,000 or imprisonment for one year or both. In addition, the Human Rights Act 1981, as amended, makes it an offence for any person to publish threatening, abusive or insulting written matter or to use threatening, abusive or insulting words in a public place or at a public meeting if he does so with intent to excite or promote ill will or hostility against any section of the public distinguished by colour, race or ethnic or national origin and if that is the likely effect of that written matter or those words. It is also an offence to do any act calculated to excite or promote such ill will or hostility if it is done with intent to incite another to commit a breach of the peace or if the person committing the act has reason to believe that a breach of the peace is the likely result.

Criminal justice review

203. In 1992 the Bermuda government invited Judge Stephen Tumim (then Chief Inspector of Prisons in England and Wales) to review and report on various aspects of criminal justice, and especially the penal system, in Bermuda. His terms of reference included a requirement to investigate perceptions that

persons of different races or different backgrounds are treated differently by the system. The review, which was conducted by a board of six persons under Judge Tumim's chairmanship, resulted in a report containing some 34 recommendations, all of which have been accepted in principle by the government of Bermuda. An implementation committee was appointed by the Premier to find ways to put the recommendations into practice and more than half of them have already been implemented: work on the others continues.

Elimination of Racial Discrimination Day

204. The Human Rights Commission in conjunction with CURE will annually host special programmes to mark the International Day for the Elimination of Racial Discrimination (21 March), as proclaimed by the General Assembly of the United Nations. The first such event took place in March 1996 and included a lunch-time programme on the steps of the city hall in Hamilton (the capital of Bermuda) in which both the Premier and the Leader of the Opposition participated; a public forum focusing on strategies for eliminating racism; and a newspaper advertising campaign to illustrate the local and worldwide effects of racism.

C. British Virgin Islands

1. General

205. General information on the land and people of the British Virgin Islands, their general political structure and the general legal framework within which human rights are protected there and on information and publicity there relating to human rights are contained in document HRI/CORE/1/Add.62. The principal industries are tourism and offshore financial services. GDP growth is estimated by the Caribbean Development Bank to have been just over 4 per cent in 1995.

206. In 1993, a review of the British Virgin Islands' Constitution was carried out by three constitutional commissioners. Amongst many recommendations was the amendment of the Constitution to include a bill of rights, and draft provisions were annexed to the constitutional commissioners' report. The draft provisions are similar to those in the Constitutions of other United Kingdom Caribbean dependent territories and include a provision on "Protection from discrimination on grounds of race, etc.". Public consultation and debate on the report is continuing.

207. The Government of the British Virgin Islands note that while article 1 (2) of the Convention excludes distinctions etc. by a State party between citizens and non-citizens, the Committee's General Recommendation XI requests States to report on legislation on foreigners and its implementation. In paragraph 8.3 of their report, the constitutional commissioners said: "In general, we found that the influx of persons from abroad, if not adequately monitored, could lead to the indigenous population being outnumbered to the detriment of the preservation of local heritage and culture. At present approximately 50 per cent of the population are immigrants from abroad .... Fears were also expressed that any indiscriminate or uncontrolled grant of status could lead to loss of control by BV Islanders in the political and economic spheres." The Commissioners considered whether the franchise or vote

should be extended to non-belongers who had been resident in the Islands for a certain period. The commissioners did not recommend extension of the franchise but rather that an annual quota and a points system should be applied to the grant of belonger status. This recommendation is being considered.

2. Information relating to articles 2 to 7 of the Convention

208. Policy on elimination of racial discrimination. In contrast to those of the United Kingdom's Caribbean dependent territories that still receive significant United Kingdom aid funds, the British Virgin Islands do not yet have a Country Policy Plan with the United Kingdom. Nevertheless, the same principles of respect for the rule of law and for the maintenance of international standards of human rights are observed. It is recognized that racial tolerance is critical to the social and, ultimately, the economic and political stability of the Islands.

209. General legal framework. The general legal framework within which racial discrimination as defined in article 1 (1) of the Convention is prohibited and eliminated is that described in Part III of the British Virgin Island's core document.

210. Demographic composition of the population. The total population derived from the 1991 census is 16,108, of whom 13,225 live on the main island, Tortola. This is an increase of 5,624 over the census taken in 1970. It is estimated that about 40 per cent of the population are immigrants from the Commonwealth Caribbean, most being from St Kitts and Nevis and St Vincent. A further 10 per cent are from North America, Europe and other countries; the fastest growing group is from the Dominican Republic.

Article 2

211. Article 2, paragraphs 1 (a)-1 (c), of the Convention are given effect to by the Constitution of the British Virgin Islands and by the safeguards inherent in the normal operation of government. Section 42 of the Constitution requires that the Governor shall not assent to any bill which appears to him "to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or power or any international organization".

212. Article 2, paragraph 1 (c), is also given effect to by the system of scrutiny of legislation known as the "non-disallowance" procedure. Under this procedure, copies of all primary legislation enacted by the legislature of a dependent territory are sent by the Governor to the Secretary of State for Foreign and Commonwealth Affairs and the legislation is scrutinized by one of his legal advisers who will be familiar with the United Kingdom's obligations under the Convention. This procedure is not just a formality: e.g. requests for clarification are regularly made and, if necessary, a territory will be requested to amend the legislation in question.

213. As regards article 2, paragraph 1 (d), there is at present no legislation in the British Virgin Islands equivalent to the United Kingdom's Race Relations Act 1976. It may well be that racial discrimination by private

persons, groups or organizations in the British Virgin Islands would give rise to a civil remedy in particular circumstances. However, it has hitherto been the view of the government of the British Virgin Islands that the circumstances of the British Virgin Islands have not required legislation in this field. Nevertheless, the strong views expressed by the Committee during the examination of the United Kingdom's twelfth periodic report were relayed to the government of the British Virgin Islands and they were asked to consider the need for such legislation. The United Kingdom has supplied all the dependent territories with copies of both the United Nations Secretariat's model legislation (A/48/558) and of a model law drafted specifically with their needs and legislative style in mind. In November 1995, the British Virgin Islands decided to legislate along the lines of the United Kingdom draft. The United Kingdom Government will keep the Committee informed of progress.

214. As regards article 2, paragraph 1 (e), organizations which promote friendship and understanding between races are encouraged and flourish in the British Virgin Islands, e.g. the Scouts, Rotary Club, the Girl Guides and the Lions Club.

Article 3

215. There are no reported instances of racial segregation or apartheid-type practices in the British Virgin Islands. However, the Committee's view that this article can apply to matters such as choice of school has been noted and the government of the British Virgin Islands will continue to prevent such practices occurring there. The model legislation which has been proposed to the dependent territories prohibits racial segregation as a form of racial discrimination.

216. The government of the British Virgin Islands welcomes the dismantling of apartheid in South Africa. The legislation on South African sanctions, which had been extended to the British Virgin Islands, as to other United Kingdom dependent territories, has been revoked.

Article 4

217. As regards article 4 (a), acts of violence or incitement to such acts would of course constitute offences under the criminal law. It is not, however, an offence to disseminate ideas based on racial superiority or hatred or to provide assistance to racist activities, including the financing thereof. Likewise, there is no legislation proscribing racist organizations or participation in them as set out in article 4 (b). However, a member of a racist organization might well be excluded from the British Virgin Islands on the ground that his presence was not conducive to the public good. Article 4 (c) is implemented by the normal operation of government.

218. The Committee's views on the implementation of article 4 (a) and (b), set out most recently in General Recommendation XV and considered in detail in the examination of the United Kingdom's twelfth and thirteenth periodic reports, have been noted carefully. The situation in the British Virgin Islands is markedly different from that in the United Kingdom in that incitement to racial hatred and the activities of racist organizations, such

as the British National Party, are notable by their absence. The interpretative statement made by the United Kingdom of course applies to the British Virgin Islands and it may be that legislation on these topics will be considered unnecessary or a low priority. However, the government of the British Virgin Islands has been asked to give this matter full consideration and, in particular, to take into account the views of the Committee. If such legislation is enacted, it will be transmitted to the Secretary-General as requested in the Committee's decision 3 (VII).

Article 5

219. In the absence of provisions on fundamental rights in the Constitution, the right of everyone to equality before the law, notably in the enjoyment of the rights listed in article 5, is guaranteed by the operation of the ordinary law: i.e. statute law, common law and equity and by the United Kingdom's responsibility for the good government of the territory.

220. The prohibition of discrimination in employment contained in the Labour Code Ordinance 1975 was referred to in the United Kingdom's twelfth periodic report in respect of the British Virgin Islands (CERD/C/226/Add.4, para. 8). As regards article 5 (e) (v), the Convention against Discrimination in Education, adopted by UNESCO in 1960, was extended to the British Virgin Islands with effect from 9 December 1964. The Education Ordinance 1977 provides that no person shall be refused admission to any government school or assisted school on account of the religious persuasion, race or language of the person or either of his parents.

Article 6

221. In the absence of a specific constitutional or statutory provision dealing with racial discrimination, effective protection against such discrimination, and a remedy for it, are provided by the ordinary law, depending on the context in which the discrimination arises. For example, if the alleged act of discrimination arose from the decision of a public body, an action for judicial review would lie against that body. The remedy would include payment of compensation in appropriate cases.

222. A complaint of discrimination under the Labour Code Ordinance is brought to the Labour Commissioner, who may investigate the complaint.

223. Individuals also have the right to submit petitions to the Governor, the Secretary of State and to Her Majesty The Queen.

Article 7

224. Information. In 1995, the Attorney General of the British Virgin Islands made a radio broadcast about human rights which made specific reference to the International Convention on the Elimination of All Forms of Racial Discrimination.

D. Cayman Islands

1. General

225. General information on the land and people of the Cayman Islands, their general political structure and the general legal framework within which human rights are protected there and on information and publicity there relating to human rights are contained in document HRI/CORE/1/Add.62. The principal industries are tourism and offshore financial services. GDP growth is estimated by the Caribbean Development Bank to have been 9.1 per cent in 1994 and 5 per cent in 1995.

226. The enormous success of the tourism and financial services industries has transformed the economy and society of the Cayman Islands over the last 25 years. The Cayman Islands are the fifth largest banking centre in the world, and gross national product per capita is higher than in the United Kingdom and Canada. Economic success, particularly in the financial services sector, has meant that there has been a heavy dependence on imported labour skills. This has contributed not only to economic growth but also to the cultural and racial diversity of the Islands. The numbers of foreign nationals have risen from less than 2,000 in 1971 to about 11,800 in 1994, an increase from 20 per cent to nearly 40 per cent of the total population. Many of these foreign nationals have been granted Caymanian status, and so enjoy the same rights and privileges as those of Caymanian descent. The Cayman Islands policy is to enhance social and racial integration between what might be termed "born" Caymanians and "status" Caymanians; and the majority of Caymanians fully realize the need for the presence of expatriate workers to maintain the quality of life which they now enjoy.

227. In 1994/95, the Cayman islands was confronted with a crisis caused by an influx of over 1,000 Cuban migrants. Such large numbers placed great strain on the financial and human resources of Cayman. The migrants left the Caymans, to return to Cuba or elsewhere, in the course of 1995 with the assistance of international agencies and in full compliance with international standards. The crisis nevertheless cost the Caymans over US$ 3,750,000.

2. Information relating to articles 2 to 7 of the convention

228. Policy on elimination of racial discrimination. The policy of the government of the Cayman Islands on elimination of racial discrimination is based on the principles of respect for the rule of law and the maintenance of international standards of human rights. It is recognized that racial tolerance is critical to the social and, ultimately, the economic and political stability of the Islands.

229. General legal framework. The general legal framework within which racial discrimination, as defined in article 1 (1) of the Convention, is prohibited and eliminated is that described in Part III of the Cayman Islands's core document. With regard to paragraph 23 of the core document, the question of amending the Constitution to include a bill of rights is still under consideration by a select committee of the Legislative Assembly.

230. Demographic Composition of the Population. The results of the last full census (1989) were described in the United Kingdom's twelfth periodic report in respect of the Cayman Islands (CERD/C/226/Add.4, p. 70, para. 6). At the end of 1994, Cayman's population was about 31,900, of whom about 37 per cent (11,800) were expatriates, mainly Jamaican, American and British. The current trend appears to be towards more rapid growth amongst the expatriate population than amongst the indigenous Caymanian population.

Article 2

231. Article 2, paragraphs 1 (a)-1 (c) of the Convention are given effect to by the Constitution of the Cayman Islands and by the safeguards inherent in the normal operation of government. Section 30 of the Constitution requires the Legislative Assembly and the Governor to conform as nearly as may be to what are known as "Royal Instructions". The Cayman Islands Royal Instructions 1972 provide that the Governor shall not assent, without instructions, to "any Bill the provisions of which shall appear to him to be inconsistent with obligations imposed on Us by treaty". These Instructions also apply to any bill which would impose special disabilities or restrictions upon, or grant special advantages to, persons of any community or religion.

232. Article 2, paragraph 1 (c), is also given effect to by the system of scrutiny of legislation known as the "non-disallowance" procedure. Under this procedure, copies of all primary legislation enacted by the legislature of a dependent territory are sent by the Governor to the Secretary of State for Foreign and Commonwealth Affairs and the legislation is scrutinized by one of his legal advisers who will be familiar with the United Kingdom's obligations under the Convention. This procedure is not just a formality: e.g. requests for clarification are regularly made and, if necessary, a territory will be requested to amend the legislation in question.

233. As regards article 2, paragraph 1 (d), there is at present no legislation in the Cayman Islands equivalent to the United Kingdom's Race Relations Act 1976. It may well be that racial discrimination by private persons, groups or organizations in the Cayman Islands would give rise to a civil remedy in particular circumstances. However, it has hitherto been the view of the government of the Cayman Islands that the circumstances of the Cayman Islands have not required legislation in this field. Nevertheless, the strong views expressed by the Committee during the examination of the United Kingdom's twelfth periodic report have been relayed to the government of the Cayman Islands and they have been asked to consider the need for such legislation. The United Kingdom has supplied all the dependent territories with both copies of the United Nations Secretariat's model legislation (A/48/558) and of a model law drafted specifically with their needs and legislative style in mind. The United Kingdom Government will keep the Committee informed of progress.

234. As regards article 2, paragraph 1 (e), organizations which promote friendship and understanding between races are encouraged and flourish in the Cayman Islands, e.g. the Scouts, Rotary Club, Lions Club and Kiwanis.

Article 3

235. There are no reported instances of racial segregation or apartheid-type practices in the Cayman Islands. The model legislation which has been proposed to the dependent territories prohibits racial segregation as a form of racial discrimination.

236. The government of the Cayman Islands welcomes the dismantling of apartheid in South Africa. The legislation on South African sanctions, which had been extended to the Cayman Islands, as to other United Kingdom dependent territories, has been revoked.

Article 4

237. As regards article 4 (a), acts of violence or incitement to such acts would of course constitute offences under the criminal law. It is not, however, an offence to disseminate ideas based on racial superiority or hatred or to provide assistance to racist activities, including the financing thereof. Likewise, there is no legislation proscribing racist organizations or participation in them, as set out in article 4 (b). However, a member of a racist organization might well be excluded from the Cayman Islands on the ground that his presence was not conducive to the public good. Article 4 (c) is implemented by the normal operation of government.

238. The Committee's views on the implementation of article 4 (a) and (b), set out most recently in General Recommendation XV and considered in detail in the examination of the United Kingdom's twelfth and thirteenth periodic reports, have been noted carefully. The situation in the Cayman Islands is markedly different from that in the United Kingdom in that incitement to racial hatred and the activities of racist organizations, such as the British National Party, are notable by their absence. The interpretative statement made by the United Kingdom of course applies to the Cayman Islands and it may be that legislation on these topics will be considered unnecessary or a low priority. However, the government of the Cayman Islands has been asked to give this matter full consideration and, in particular, to take into account the views of the Committee. If such legislation is enacted, it will be transmitted to the Secretary-General as requested in the Committee's decision 3 (VII).

Article 5

239. In the absence of provisions on fundamental rights in the Constitution, the right of everyone to equality before the law, notably in the enjoyment of the rights listed in article 5, is guaranteed by the operation of the ordinary law: i.e. statute law, common law and equity and by the United Kingdom's responsibility for the good government of the territory.

240. Section 72 of the Labour Law 1987 was referred to in paragraph 10 of the United Kingdom's twelfth periodic report in respect of the Cayman Islands (CERD/C/226/Add.4). As regards article 5 (e) (v), the Convention against Discrimination in Education, adopted by UNESCO in 1960, was extended to the Cayman Islands with effect from 29 May 1964.

Article 6

241. In the absence of a specific constitutional or statutory provision dealing with racial discrimination, protection against such discrimination, and a remedy for it, are provided by the ordinary law, depending on the context in which the discrimination arises. For example, if the alleged act of discrimination arose from the decision of a public body, an action for judicial review would lie against that body. The remedy would include payment of compensation in appropriate cases.

242. A complaint of discrimination under the Labour Law is brought to the Labour Tribunal, which has power to order compensation.

243. Individuals also have the right to submit petitions to the Governor, the Secretary of State and to Her Majesty The Queen.

Article 7

244. Education and Teaching. Curricula both at government and private schools emphasize the need for tolerance between peoples and nations. This is expressed at a very practical level in the Cayman Islands, as the children of expatriate workers and the children of Caymanians attend the same schools. Thus, the lessons of tolerance among children of multiracial and multicultural origins are taught and learned in a very real sense.

E. Falkland Islands

245. Save as is indicated below, the position as regards the implementation of the Convention in the Falkland Islands remains substantially as described in the United Kingdom's twelfth periodic report in respect of the territory. However, the following paragraphs describe certain significant new developments since the preparation of that report, and also provide some further information supplementary to it.

Article 2

246. On 7 June 1994 the Falkland Islands Legislature enacted the Race Relations Ordinance 1994. That Ordinance came into force on 17 June 1994. Its effect was to give the provisions of the Race Relations Act 1976 of the United Kingdom (as in force on 7 June 1994 and as they applied in relation to England and Wales) the force of law in the territory, subject to various modifications and exceptions which were necessary or expedient to enable them to operate in the circumstances of the territory. Racial discrimination was therefore rendered unlawful in the territory in substantially the same way as it is unlawful in England and Wales.

Article 3

247. In the preparation of this report, account has of course been taken of the Committee's General Recommendation XIX (47), and the Falkland Islands government is certainly alert to the considerations which are there set out. But the small size of the population of the territory, and the composition and distribution of the population, do permit it to be confidently stated that

racial segregation and apartheid are unknown in the territory in any form. Nor would the people of the territory tolerate any attempt to engage in any practice of that nature. However, it can be added that section 1 (2) of the Race Relations Act 1976 of the United Kingdom, which now operates as part of the law of the territory by virtue of the Race Relations Ordinance 1994 (see above), expressly equates segregating a person from other persons on racial grounds with racial discrimination as prohibited by the Act, with the result that such segregation, if it ever did occur, would be unlawful in the same way as racial discrimination itself now is.

Article 4

248. Under the Crimes Ordinance 1989, various provisions of a number of criminal law statutes of the United Kingdom were adopted as part of the law of the Falkland Islands, subject to the necessary modifications to fit them to local circumstances. The provisions so adopted included Part III of the Public Order Act 1986. Part III of that Act prohibits the commission of various acts which are intended or likely to stir up racial hatred (including the publication or distribution, etc. of racially inflammatory material) and it prescribes substantial penalties for breaches of the prohibition. It also provides ancillary machinery for the effective enforcement of the prohibition, including powers of entry and search and the power of a court to order the forfeiture of racially inflammatory material whose publication, etc. has resulted in a person's conviction. The law of the Falkland Islands on this matter is therefore now essentially the same as the law of the United Kingdom.

Article 5

249. By virtue of section 6 of the Constitution of the Falkland Islands, a woman who has not previously been entitled in her own right to reside in the territory but who marries a man who "belongs to the Falkland Islands" - this status generally derives from his having been born there or from one of his parents having been born there - thereby acquires the right to enter and remain in the territory. The Constitution itself does not confer the corresponding right on a man who marries a woman who "belongs to the Falkland Islands". It has been suggested that the practical application of this distinction between the two cases might involve an element of discrimination on grounds of sex and perhaps also on grounds of race. The Falkland Islands government therefore decided in January 1994 to adopt the general policy, in cases where it is the wife who "belongs to the Falkland Islands", of permitting her husband to enter and reside in the territory. The possibility of sexual or racial discrimination, if such there indeed was, has therefore been eliminated.

F. Gibraltar

250. Save as is indicated below, the position as regards the implementation of the Convention in Gibraltar remains substantially as described in the United Kingdom's twelfth periodic report in respect of the territory. However, there have been certain relevant developments since the twelfth periodic report which should be drawn to the Committee's attention.

251. Perhaps the most important of these is that, having carefully considered the views expressed by the Committee during its examination of the twelfth periodic report, the Government of Gibraltar is currently giving consideration to the possibility of introducing legislation aimed specifically at the elimination and prevention of racial discrimination practised by private persons or private bodies. Racial discrimination in the public sphere - that is to say, legislation which discriminates either of itself or in its practical effect or discriminatory conduct by persons acting in the performance of any public function conferred by law or otherwise in the performance of the functions of any public office or any public authority - is already prohibited by section 14 of the Constitution of Gibraltar (as explained fully in the twelfth periodic report) and the Constitution establishes the procedure by which this prohibition may be enforced in the courts and appropriate remedies obtained if necessary. In its current consideration of possible legislation dealing with racial discrimination in the private sphere, the Gibraltar government has the assistance of the draft model legislation supplied to Gibraltar (as to other dependent territories) by the United Kingdom Government. This model itself derives from the United Kingdom's Race Relations Act 1976, as amended, but if it does form the basis of legislation to be enacted by the legislature of Gibraltar, it will of course need to be adapted, on matters of detail, to fit local circumstances.

252. The other changes to the position as recorded in the twelfth periodic report that can be drawn to the Committee's notice largely concern points of detail. The first is that one of the previously permitted exceptions to the general prohibition of discriminatory legislation imposed by section 14 of the Constitution (namely, that the prohibition would not apply to a law to the extent that it made provision for deeming whether or not a firm or company is under non-Gibraltarian control for the purposes of the Trade Restriction Ordinance) has now effectively been abolished, since the Trade Restriction Ordinance has itself been repealed. A second change to be noted is that the list (in para. 10 of the twelfth periodic report) of legislation in force in Gibraltar whose aim is, inter alia, to prevent discrimination can now be augmented by the addition of the Criminal Offences Ordinance, the Medical and Health Ordinance and the Medical (Group Practices Scheme) Ordinance. A further point to be noted is that, since Gibraltar is a territory within the European Union, the various safeguards against discrimination which are provided under European Union law are operative in Gibraltar also. This does not strictly represent a change from the position as at the twelfth periodic report, but it was not mentioned in that report. That report did draw attention to the fact that the safeguards against discrimination provided by the European Convention on Human Rights (together with its enforcement machinery) were fully applicable in Gibraltar: this of course remains the position.

G. Hong Kong

Introduction

253. This report, as recommended by the Committee in its concluding observations on the United Kingdom's thirteenth periodic report, is an

updating report and addresses all the issues raised in those observations. The United Kingdom's thirteenth periodic report in respect of Hong Kong is referred to as "the previous report".

Study of racial discrimination

254. In its concluding observations on the previous report the Committee described the proposal to study racial discrimination "as a constructive means of determining the extent of problems in the area of racial discrimination". The Hong Kong government has secured the necessary resources and aims to start work on the study later in 1996. Like earlier studies on sex and age discrimination, this will entail a comparative examination of experience and practice in overseas jurisdictions and extensive consultation within the local community. The purpose will be to assess whether problems exist in this area and, if so, how best to address them. The Hong Kong government aims to complete work on the study and to report its findings to the Legislative Council in the 1996/97 legislative session.

Ethnic composition of the population

255. In its concluding observations on the previous report the Committee expressed concern that the 1991 Census did not include questions which would help determine the ethnic and racial composition of the population. It recommended that efforts be made to determine that composition. This recommendation was made too late for the Hong Kong government to take it into account in its 1996 By-census which started on 16 March 1996. Like the main (1991) Census, the By-census included questions about place of birth, nationality and usual language. It did not include direct questions about racial or ethnic origin because of the Hong Kong government's concern that such questions might give rise to unease amongst some sectors of the community. However, the Hong Kong government notes that, despite similar concerns, the United Kingdom Government felt able to include such questions in its own most recent Census. The Hong Kong government will accordingly take account of the Committee's recommendation when preparing for the next Census.

Legislation against racial discrimination

256. In its concluding observations on the previous report the Committee expressed concern that the Bill of Rights Ordinance (BORO) did not protect persons in Hong Kong from racial discrimination to which they might be subjected by private persons, groups or organizations. It recommended that the BORO be amended to extend its provisions on discrimination to acts committed by such persons, groups or organizations.

257. The Hong Kong government will examine the need for further legislation in the field of racial discrimination in its forthcoming study of that topic. Should the study indicate that there are real problems in this area, the Hong Kong government will consider the need for legislation and other measures directed specifically at those problems - as it did in respect of discrimination on the grounds of sex and disability. It remains strongly of the view that the ordering of relations between private persons is better achieved through such specifically focused legislation or other measures specifically aimed at particular problems than through the broad provisions of

the BORO. The traditional and primary function of bills of rights, such as the BORO, is to protect citizens against the infringement of their rights by the State. Where what is involved is the possibility of such infringements being committed by private persons or groups, the Hong Kong government considers it more productive to examine, individually and in concrete terms, the different ways in which such infringements occur, to consult the public on its findings and - taking into account both the findings and the public response to the consultation - to adopt the measures most appropriate for dealing with any problems that have been shown to exist.

258. In July 1996 a member of the Legislative Council introduced a member's bill against racial discrimination. The Legislative Council has not yet embarked on a substantive debate of this bill. The Hong Kong government is, of course, firmly committed to the principle of equal opportunities for all and opposes discrimination on any grounds whatever. But, for the reasons already explained and conscious that the proposed legislation would have far-reaching implications for the community as a whole and for private persons in many aspects of their daily lives, it is convinced that there is a need for the community thoroughly to examine and to understand the issues - and the nature of any difficulties - before reaching conclusions on what measures, or combination of measures, will best address whatever problems have been identified. The forthcoming study of racial discrimination reflects that conviction.

Nationality: Ethnic Minorities of South Asian Origin

259. In its concluding observations on the previous report the Committee noted the United Kingdom Government's assurances that no member of the ethnic minority community in Hong Kong with solely British nationality would be left stateless following the transfer of sovereignty, but the Committee expressed concern that neither the status of British National (Overseas) (BN(O)) nor that of British Overseas citizen (BOC) entitled holders to the right of abode in the United Kingdom. The Committee contrasted this with "the full citizenship status conferred on a predominantly white population living in another dependent territory" and noted "that most of the persons holding BN(O) or BOC status are Asians and that judgements on applications for citizenship appear to vary according to the country of origin, which leads to the assumption that this practice reveals elements of racial discrimination". The Committee recommended that the question of the citizenship status of these persons be reviewed to ensure that their human rights were protected and that they were not "discriminated against as compared with residents of other former colonies of the United Kingdom".

260. The Committee can be assured that neither race, ethnic origin nor colour is a factor affecting decisions about British citizenship or the right of abode in the United Kingdom. Where a person born outside the United Kingdom acquires British citizenship, it is because he or she satisfies the criteria (establishing a relevant connection with the United Kingdom) laid down by the British Nationality Act 1981 or the particular criteria laid down in subsequent special legislation such as the British Nationality (Hong Kong) Act 1990. These criteria govern his or her rights irrespective of race, ethnic origin or colour - and the legislation in fact unambiguously excludes racial discrimination of any kind. As was explained in the previous report,

section 44 (1) of the 1981 Act (which is expressly adopted by section 2 (3) of the 1990 Act for the purposes of that latter Act) provides that any discretion vested in the Secretary of State or a Governor shall be exercised without regard to the race, colour or religion of any person who may be affected by its exercise. Large numbers of Asians, indeed large numbers of persons of all races, ethnic origins and colours, have acquired British citizenship under these measures and, with it, the right of abode in the United Kingdom.

261. As stated in the previous report, the 1990 Act provides for up to 50,000 principal applicants resident in Hong Kong to be granted British citizenship. Spouses and minor children may be included in the applications. The purpose of the Act (which was essentially to give key personnel the confidence to remain in Hong Kong up to and after July 1997) was explained in the previous report. To date, over 130,000 persons in Hong Kong, mainly Chinese but including an estimated 700 members of the ethnic minorities, have in this way acquired British citizenship.

262. Most of the remainder of the British nationals in Hong Kong are at present British Dependent Territories citizens (BDTCs). They hold that status under the 1981 Act mostly by birth, naturalization or residence in the territory and their position in this respect is the same as that of the inhabitants of all other United Kingdom dependent territories. However, the BDTC status of persons who enjoy it by virtue of their connection with Hong Kong will of course automatically lapse once Hong Kong ceases to be a United Kingdom dependent territory on 1 July 1997. However, the Hong Kong (British Nationality) Order 1986, as amended by the Hong Kong (British Nationality)(Amendment) Order 1993 - both Orders being made under the Hong Kong Act 1985 - established machinery whereby any such persons might apply (before the respective relevant dates specified in the Order) for the successor status of British National (Overseas)(BN(O)) and, on making such application, would receive that status as of right: the majority of BDTCs have already done this. Those who have not acquired the status of BN(O) by 1 July 1997 will automatically become British Overseas Citizens (BOCs) on that date if they would otherwise then be stateless.

263. Under Hong Kong law, persons who are currently BDTCs by virtue of their connection with the territory - and this of course includes the members of the ethnic minorities - have the right of abode in Hong Kong. Under chapter XIV of annex I to the Sino-British Joint Declaration and article 24 of the Basic Law of the future Hong Kong Special Administrative Region (HKSAR), persons who have the right of abode only in Hong Kong immediately before 1 July 1997 will continue to enjoy that right thereafter, as permanent residents of the HKSAR. This has been expressly reiterated in an assurance given by the Chinese Foreign Minister, Vice-Premier Qian Qichen, to the United Kingdom Secretary of State for Foreign and Commonwealth Affairs during the latter's recent visit to China. For the members of the ethnic minorities, most of whose families have lived in Hong Kong for generations, Hong Kong is their home and the place where they want to remain, and the provisions and arrangements just described constitute a guarantee of their right and ability to do so. But it is to be noted that the United Kingdom Government has given an added assurance that if, against all expectations, any person who was solely a British national came under pressure to leave Hong Kong, the United Kingdom Government of the day would consider with considerable and particular sympathy his or her case for

admission to the United Kingdom. This assurance has been further strengthened by a statement made by the Prime Minister of the United Kingdom in Hong Kong in March 1996. He then gave the explicit undertaking that any member of the ethnic minorities, being solely a British national, who came under pressure to leave Hong Kong would be guaranteed admission to the United Kingdom.

264. The reference in the Committee's concluding observations on the previous report to the citizenship status enjoyed by "a predominantly white population living in another dependent territory" is taken to be a reference to the position as regards Gibraltar or the Falkland Islands, both of which were alluded to in the course of the examination of that report. Both of those territories, however - and of course they remain colonies of the United Kingdom, so that their inhabitants continue, in general, to enjoy the status of BDTCs - have special features, as explained below, which have necessitated certain special citizenship arrangements and which make it impossible to draw meaningful comparisons between what has been done in those cases and what has been done for the members of the ethnic minorities in Hong Kong - except to note that in none of the cases is race a relevant factor.

265. In both Gibraltar and the Falkland Islands - as in the case of all United Kingdom dependent territories (see above) - the basic form of British nationality that is acquired under the 1981 Act by virtue of a connection with the territory is the status of BDTC. The special arrangements for those two territories are additional to those for the acquisition of BDTC status, and neither form of arrangement turns in any way on, or pays any regard to considerations of race, ethnic origin or colour: see section 44 (1) of the 1981 Act (para. 267 above) which applies to both sets of arrangements. In the case of Gibraltar, the special arrangements flow directly from Gibraltar's geographical position, as a result of which Gibraltarians are considered as "nationals of the United Kingdom" for the purposes of the "Community Treaties" of the European Union and accordingly have the right under the Treaties to move freely within the countries of the European Union and, in particular, to take up residence in the United Kingdom itself. It is simply to reflect and give effect to this that section 5 of the 1981 Act provides that Gibraltarians are entitled, if they apply, to be registered as British citizens. In the case of the Falkland Islands, the special arrangements were a product of the invasion of the Falkland Islands in 1982 and the hostilities which ensued. In the aftermath of those events and having regard to the attitude of the population of the Islands during and in consequence of them, the British Nationality (Falkland Islands) Act 1983, which originated as a private member's bill, provided, in effect, that any Falkland Islanders (that is to say, persons who, under the 1981 Act, would be BDTCs by virtue of their connection with the Falkland Islands) who did not otherwise have the status of British citizens should have that status conferred on them. The practical effect of this measure was to confer British citizenship on a very small number of persons - it is estimated that only about 500 persons were immediately affected by it. This may be compared with the 700 members of the ethnic minorities in Hong Kong who have so far acquired British citizenship under the special arrangements made for Hong Kong, as described above.

Domestic helpers

266. In its concluding observations on the previous report, the Committee expressed the concern that, since most of the persons affected by the "two-week rule" were female foreign domestic helpers from the Philippines, it appeared to have discriminatory aspects under the terms of the Convention which might leave workers vulnerable to abusive employers. It recommended that the rule be modified to allow foreign workers to seek new employment in Hong Kong when their employment was terminated.

267. The rule was introduced in early 1987 to curb various abuses which had been previously extensive. These abuses included such practices as "job-hopping", whereby workers deliberately terminated their contracts in order to change employers and stay on indefinitely in Hong Kong. These problems were recognized by the Judicial Committee of the Privy Council (on appeal from the Hong Kong Court of Appeal) in Vergara & Arcilla v. Attorney General ([1989] 1 HKLR 233). The Judicial Committee, which is the apex of the Hong Kong judicial system, rejected a challenge, by way of judicial review, to the validity of the two-week rule. It recognized that the former policy - which permitted foreign workers, upon ceasing employment, to stay in Hong Kong for up to six months - had been abused. In its judgement, the Judicial Committee said:

> "Some [foreign domestic helpers] were deliberately breaking their contracts early in the six-month period in order to work in other part-time or full-time jobs until the period of stay had expired, or in order to find another employer. This gave rise to complaints by the employer who had made all the arrangements to bring the [helper] to Hong Kong and had paid the travel expenses. It also gave rise to complaints by local people who wished to secure employment as part-time domestic helpers and who found themselves in competition with [foreign domestic helpers] who had only been admitted to work full-time. Moreover, it resulted in some cases in the employment of [foreign domestic helpers] in jobs for which, under general policy, foreign nationals were not admitted, for example, in bars and clubs."

268. The Hong Kong government rejects any suggestion that the rule is based on or entails racial discrimination either in the literal sense of that term or in the broader sense which it has in the Convention. The rule applies to all foreign domestic helpers and other "imported" workers, whatever their country of origin. Most of the persons affected by the rule are indeed female domestic helpers from the Philippines, of whom there are currently about 130,000 living and working in the territory. But it applies equally, and without discrimination, to domestic helpers from other countries - there are at present about 25,000 of these - and to the 15,000 (mainly male) "imported" workers, most of whom come from China. The imposition of special restrictions on the employment of foreign workers, as distinct from workers who are permanent residents of the territory, is of course a natural and normal aspect of immigration control, and this particular restriction is an intrinsically appropriate, reasonable and proportionate response to the problems described above.

269. Nevertheless, all necessary measures are taken to ensure a fair balance between the legitimate interests of foreign domestic helpers (and other "imported" workers) on the one hand and, on the other hand, those of their employers and the public interest, and to prevent "abusive" treatment by employers. Thus, in exceptional circumstances - especially where there is evidence of abuse by employers, but also if employers are prevented from honouring their contracts because of death, financial difficulties or emigration - permission may be given for workers to change employment without first leaving the territory. A fuller account of the provisions which are in force, or the measures which are taken, for the protection of foreign workers, and of the facilities available to them, is given in paragraphs 42-53 of the United Kingdom's third periodic report in respect of Hong Kong under the International Covenant on Economic, Social and Cultural Rights (E/1994/104/Add.10).

Vietnamese migrants

270. In its concluding observations on the previous report, the Committee stated that there were serious indications that the conditions to which Vietnamese migrants were subjected while being held in detention centres in Hong Kong constituted a violation of their human rights and required urgent attention. Of principal concern was the absence of education facilities for the children in the centres.

271. The general question of conditions in the detention centres is addressed in depth in paragraphs 25-32 of the United Kingdom's supplementary report in respect of Hong Kong under the International Covenant on Civil and Political Rights, which was submitted in May 1996. As stated in that report, the Hong Kong government, together with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other agencies and organizations, makes every effort to provide living conditions in the detention centres that are decent and humane. Full details of the measures taken and of the facilities provided are given in that report, in the paragraphs cited above.

272. As regards the children, it is not correct that there is an absence of educational facilities for them in the detention centres. Again, a full account of the situation is given in paragraph 377 of the United Kingdom's initial report in respect of Hong Kong under the Convention on the Rights of the Child (CRC/C/11/Add.9). As is there shown, agencies sponsored by UNHCR provide preschool and primary education in the camps. UNHCR used to provide secondary education but withdrew that service in July 1995. This decision was made pursuant to the reaffirmation, at the sixth meeting of the Steering Committee of the International Conference on Indo-Chinese Refugees, that all Vietnamese migrants who had been determined to be non-refugees should return to Viet Nam and that the services in places of first asylum should be streamlined. As the Committee will be aware, UNHCR does not provide secondary education in other places of first asylum.

273. Since the implementation of UNHCR's decision, and with the help of non-governmental organizations the migrants have themselves organized secondary schooling for their children. The Hong Kong government provides assistance in the form of accommodation, classroom furniture and education materials (chalk, exercise books, pens, etc.). It also provides

extracurricular materials, such as sporting equipment, and is currently considering how it can assist with teachers' pay and the provision of textbooks.

Continued application of the Convention

274. The issue of the continued application of the Convention was not one on which the Committee commented in its concluding observations on the previous report. However, it has been discussed in the Sino-British Joint Liaison Group and the Chinese side have indicated in that context their agreement that the Convention will apply to the Hong Kong Special Administrative Region on and after 1 July 1997.

H. Montserrat

1. General

275. General information on the land and people of Montserrat, its general political structure and the general legal framework within which human rights are protected there and on information and publicity there relating to human rights are contained in document HRI/CORE/1/Add.62.

276. The economy of Montserrat has been disrupted by severe volcanic activity which began in July 1995. The population in the south of the island has been relocated to a low-risk area in the north since April 1996. There has been some net emigration and the population has fallen to about 7,000. A recent census showed that the majority of Montserratians wished to remain on the island. The United Kingdom has recently announced a package of aid worth £25 million to provide a fast-track development programme for the north of the island. The package also covers the cost of maintaining the necessary level of public services through the emergency between April 1996 and March 1998 and is in addition to the £25 million committed by the United Kingdom as an immediate response to the situation in Montserrat when volcanic activity began.

277. A commission was recently appointed to consult the population and advise whether elections which are due this year should go ahead in the light of the volcanic emergency. The commission recommended that elections should be held on schedule and the poll will take place on 11 November 1996.

278. With reference to paragraph 11 of Montserrat's core document ("The courts"), a judge has now been assigned by the Eastern Caribbean Supreme Court, on a permanent basis, to be shared by Montserrat and Anguilla.

2. Information relating to articles 2 to 7 of the Convention

279. Policy on elimination of racial discrimination. On 10 May 1994, the government of Montserrat and the Government of the United Kingdom agreed a "Country Policy Plan" which set out the major policy objectives and principal programme targets which the government of Montserrat has set itself in consultation with the Government of the United Kingdom. The Country Policy Plan is stated to be a tangible instrument created to facilitate the new thrust in cooperation and partnership between the United Kingdom and its

dependent territories in the Caribbean. This cooperation and partnership is aimed at promoting good government and self-sustainable growth and economic autonomy for Montserrat over the medium to long term.

280 The Country Policy Plan contains a section entitled "Principles guiding the aministration of Montserrat". The principles include the following:

"- respect for the rule of law and fundamental principles enshrined in the Constitution, including the protection of fundamental rights and freedoms;

"- maintenance of international standards of human rights which reflect evolving international norms."

281. The bulk of the Country Policy Plan is made up of a "policy matrix", of detailed proposals for action over a three-year period across the spectrum of government activity, including a new section on the volcanic emergency, and contains a section entitled "International obligations". The policy matrix is reviewed each year and the latest version of this section (March 1996) includes the following: "consider legislation on race relations to implement the International Convention on the Elimination of Racial Discrimination".

282. The government of Montserrat has noted the remarks of Mr. Ferrero Costa during the examination of the United Kingdom's twelfth periodic report (CERD/C/SR.997, para. 5) and those of Mr. de Gouttes (para. 19) that it is the Committee's doctrine that no State is exempt from the phenomenon of racial discrimination. Nevertheless, the fact remains that racial discrimination of the kind reported on by the United Kingdom in respect of Great Britain and Northern Ireland is not a problem in Montserrat.

283. General Legal Framework. The general legal framework within which racial discrimination as defined in article 1 (1) of the Convention is prohibited and eliminated is that described in Part III of Montserrat's core document. In particular, the preamble to Part IV of the Constitution and section 63 of the Constitution deal with protection from discrimination on grounds of race, etc.

284. Demographic composition of the population. As stated above, the present population is estimated to be in the region of 6,000-7,000, having fallen as a result of the volcanic emergency. The population remains predominantly of African origin but with an early admixture of Irish influence having been replaced by persons from other Caribbean islands. There is also a small group of Indian nationals on the island.

Article 2

285. Article 2, paragraphs 1 (a) and 1 (b), of the Convention are given effect to by section 63 (1) of the Constitution of Montserrat, which in essence provides that no law shall make any provision which is discriminatory either of itself or in its effect, and by section 63 (2) which in essence provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

286. Article 2, paragraph 1 (c), is given effect to by the regular review of Montserrat's Country Policy Plan and by the system of scrutiny of legislation. When any legislation is passed by the House of Assembly in Montserrat, the Attorney General and the Governor must be satisfied that it is proper for the Governor to assent to it. Laws or regulations which had the effect of creating or perpetuating racial discrimination would not receive assent and would in any event be unconstitutional. Section 48 of the Constitution requires the Governor to reserve for the signification of Her Majesty's pleasure any proposed law which appears to him "to be inconsistent with any obligation of Her Majesty's Government in the United Kingdom towards any other State or power or any international organization". There is a further safeguard known as the "non-disallowance" procedure. Under this procedure, copies of all primary legislation enacted by the legislature of a dependant territory are sent by the Governor to the Secretary of State for Foreign and Commonwealth Affairs and the legislation is scrutinized by one of his legal advisers who will be familiar with the United Kingdom's obligations under the Convention. This procedure is not just a formality: e.g. requests for clarification are regularly made and, if necessary, a territory will be requested to amend the legislation in question.

287. As regards article 2, paragraph 1 (d), there is at present no legislation in Montserrat equivalent to the United Kingdom's Race Relations Act 1976. It may well be that racial discrimination by private persons, groups or organizations in Montserrat would give rise to a civil remedy in particular circumstances. However, it has hitherto been the view of the government of Montserrat that the circumstances of Montserrat have not required legislation in this field. Nevertheless, the strong views expressed by the Committee during the examination of the United Kingdom's twelfth periodic report have been relayed to the government of Montserrat and they have been asked to consider the need for such legislation. The United Kingdom has supplied all the dependent territories with copies both of the United Nations Secretariat's model legislation (A/48/558) and of a model law drafted specifically with their needs and legislative style in mind. Draft legislation based on this model law is currently being prepared in Montserrat and the United Kingdom Government will keep the Committee informed of progress.

288. As regards article 2, paragraph 1 (e), organizations which promote friendship and understanding between races are encouraged and flourish in Montserrat, e.g. the Scouts, Girl Guides, Boys Brigade, Rotary Club and Soroptimists.

Article 3

289. There are no reported instances of racial segregation or apartheid-type practices in Montserrat. However, the Committee's view that this article can apply to matters such as choice of school has been noted and the government of Montserrat will continue to prevent such practices occurring there. The model legislation which has been proposed to the dependent territories prohibits racial segregation as a form of racial discrimination.

290. The government of Montserrat welcomes the dismantling of apartheid in South Africa. The legislation on South African sanctions which had been extended to Montserrat, as to other United Kingdom dependent territories, has been revoked.

Article 4

291. As regards article 4 (a), acts of violence or incitement to such acts would of course constitute offences under the criminal law. It is not, however, an offence to disseminate ideas based on racial superiority or hatred or to provide assistance to racist activities, including the financing thereof. Likewise, there is no legislation proscribing racist organizations or participation in them, as set out in article 4 (b). However, a member of a racist organization might well be excluded from Montserrat on the ground that his presence was not conducive to the public good. Article 4 (c) is implemented by section 63 of the Constitution.

292. The Committee's views on the implementation of article 4 (a) and (b), set out most recently in General Recommendation XV and considered in detail in the examination of the United Kingdom's twelfth and thirteenth periodical reports, have been noted carefully. The situation in Montserrat is of course markedly different from that in the United Kingdom in that incitement to racial hatred and the activities of racist organizations, such as the British National Party, are notable by their absence. The interpretative statement made by the United Kingdom of course applies to Montserrat and it may be that legislation on these topics will be considered unnecessary or a low priority. However, the government of Montserrat has been asked to give this matter full consideration and, in particular, to take into account the views of the Committee. If such legislation is enacted, it will be transmitted to the Secretary-General as requested in the Committee's decision 3 (VII).

Article 5

293. The preamble to Part IV of the Constitution and its subsequent sections give effect to the provisions of Articles 5 (a), 5 (b), 5 (d) (i), (ii), (v) and (vii)-(ix), 5 (e) (ii) and 5 (f). Other provisions in article 5 are dealt with by the general prohibition on discrimination in section 63 of the Constitution. In addition, with respect to article 5 (e) (v), the Convention against Discrimination in Education, adopted by UNESCO in 1960, was extended to Montserrat with effect from 29 May 1964.

Article 6

294. Section 66 of the Constitution provides a remedy for contravention of its provisions on the protection of fundamental rights and freedoms. The High Court has original jurisdiction to hear and determine an application and may make such orders, issue such writs and give such directions as it may consider appropriate in order to enforce those provisions.

295. A complaint of discrimination in termination of employment is brought to the Labour Tribunal, which has power to order compensation.

296. Individuals also have the right to submit petitions to the Governor, the Secretary of State and to Her Majesty The Queen.

Article 7

297. Education and Teaching. Both primary and secondary school students are taught social studies where they are introduced to the concept of interdependence of human groups within society and the benefit of mutual cooperation between all races. There is also discussion at community level which focuses on the problems occurring in some countries because of racial intolerance.

298. Culture. The Department of Culture is responsible for developing national culture and traditions to combat racial prejudice and to promote intercultural understanding among races and nationals of all origins. The Department organizes national cultural activities and sensitizes the community about other cultures.

299. Information. The media in Montserrat, both State-owned and private, disseminate information to combat racial prejudices which lead to racial discrimination.

I. Pitcairn

300. There have been no significant developments to report as regards the implementation of the Convention in Pitcairn since the United Kingdom's twelfth periodic report in respect of the island. At the most recent enumeration of the population of the island, it consisted of a total of 43 persons, of whom 30 were Pitcairners (as explained in the twelfth report) and 13 were expatriates (the teacher, the nurse, the administrative adviser and their respective families). There are at present six Pitcairners in New Zealand, either for medical treatment or on visits, who will be returning to Pitcairn in the coming months.

J. St. Helena (including Ascension Island and Tristan da Cunha)

301. Save as is indicated below, the position as regards the implementation of the Convention in St. Helena and its dependencies (Ascension Island and Tristan da Cunha) remains substantially as described in the United Kingdom's twelfth periodic report in respect of the territory. However, there are two respects in which that report needs to be brought up to date.

Demographic composition of the population.

302. The total resident population of the islands is now estimated to be in the region of 6,600 persons (as compared with 7,162 as at the time of the twelfth report). This approximate figure is made up as follows:

St. Helena - 5,131 (estimate as in December 1995)
Ascension - 1,248 (as at 1 October 1996)
Tristan da Cunha - 298 (as at 23 October 1996)

Legislation against racial discrimination.

303. In response to the views expressed by the Committee, the St. Helena government has agreed to proceed with the enactment, for each of the three islands, of legislation which will expressly prohibit racial discrimination. This legislation will be based - with suitable adaptations for local circumstances - on the draft model law supplied by the United Kingdom Government to its dependent territories (which in turn was based on the United Kingdom's own Race Relations Act 1976, as amended). Such legislation has been approved by the Tristan da Cunha Island Council and has accordingly already been enacted by the Governor, on 20 June 1996, as the Race Relations (Tristan da Cunha) Ordinance 1996. It came into force immediately upon enactment. Legislation for the island of St. Helena has also already been prepared and is currently being submitted to the Legislative Council for scrutiny. The corresponding legislation for Ascension will be prepared in due course. These three pieces of legislation will give formal and legal effect in the islands to the relevant obligations arising from articles 2 and 3 of the Convention. If any instance of racial discrimination were to occur before all the legislation is in place and in force - which, in the circumstances of the islands, is considered to be extremely unlikely - regard would be had to the provisions of the 1976 Act to the extent that these currently apply in the islands by virtue of the English Law (Application) Ordinance 1987 and the St. Helena Law (Ascension) Ordinance 1987.

K. Turks and Caicos Islands

1. General

304. General information on the land and people of the Turks and Caicos Islands, their general political structure and the general legal framework within which human rights are protected there and on information and publicity there relating to human rights are contained in document HRI/CORE/1/Add.62. The principal industries are tourism, offshore financial services and fishing. GDP growth is estimated by the Caribbean Development Bank to have been 4.5 per cent in 1994 and 2.7 per cent in 1995. Economic growth is likely to continue, driven by the tourist industry which is based primarily on the island of Providenciales. The population, particularly on Providenciales, has risen sharply since the 1990 census and a recent conservative estimate suggested a population of 19,000.

305. With reference to paragraph 20 of the Turks and Caicos Islands' core document, the Court of Appeal has been localized and now sits regularly in the Turks and Caicos Islands instead of in the Bahamas.

2. Information relating to articles 2 to 7 of the Convention

306. Policy on elimination of racial discrimination. On 6 October 1994, the Government of the Turks and Caicos Islands and the Government of the United Kingdom agreed a "Country Policy Plan" which set out the major policy objectives and principal programme targets which the government of the Turks and Caicos Islands has agreed with the Government of the United Kingdom. The Country Policy Plan is stated to be a tangible instrument created to facilitate the new thrust in cooperation and partnership between the

United Kingdom and its dependent territories in the Caribbean. This cooperation and partnership is aimed at promoting good government and self-sustainable growth and economic autonomy for the Turks and Caicos Islands over the medium to long term.

307. The Country Policy Plan contains a section entitled "Principles guiding the Administration of the Turks and Caicos Islands". The principles include the following:

"- respect for the rule of law and fundamental principles enshrined in the Constitution, including the protection of fundamental rights and freedoms;

"- maintenance of international standards of human rights which reflect evolving international norms."

308. The bulk of the Country Policy Plan is made up of a "policy matrix" of detailed proposals for action over a three-year period across the spectrum of government activity, from agriculture to tourism, and contains a section entitled "International obligations". The policy matrix is reviewed each year and the latest version of this section (November 1996) includes, the following: "consider the comments of the Committee on the Elimination of Racial Discrimination ..." and "allocate priorities to implementing obligations, including reporting obligations".

309. The Turks and Caicos Islands government has noted the remarks of Mr. Ferrero Costa during the examination of the United Kingdom's twelfth periodic report (CERD/C/SR.997, para. 5) and those of Mr. de Gouttes (para. 19) that it is the Committee's doctrine that no State is exempt from the phenomenon of racial discrimination. Nevertheless, the fact remains that racial discrimination of the kind reported on by the United Kingdom in respect of Great Britain and Northern Ireland is not a problem in the Turks and Caicos Islands. That is not to say that there are not occasionally tensions. A Caribbean Development Bank Report describes the significant "non-national" participation in economic activity and states that "this has led in the past to some discomfort with the trade-off between output and incomes growth, on one hand and an increasing number of 'non-belongers' in the country, on the other".

310. The government of the Turks and Caicos Islands faces a particular problem in dealing with large-scale illegal immigration from Haiti. A 1995 study of the immigrant population of the Turks and Caicos Islands suggested that population growth since the 1990 census was 70 per cent on a low estimate and 115 per cent on a higher estimate. Between one third and one half of the Haitian population are thought to be illegal immigrants. Any repatriation of illegal immigrants is carried out in accordance with international standards, in particular the principle of non-refoulement being recognized.

311. General legal framework. The general legal framework within which human rights are protected and racial discrimination, as defined in article 1 (1) of the Convention, is prohibited by law is that described in Part III of the

Turks and Caicos Islands's core document. In particular, sections 67 and 78 of the Constitution deal with protection from discrimination on grounds of race, etc.

312. Demographic Composition of the Population. The 1995 study on the immigrant population concluded that, on a conservative estimate, the population for the whole of the Turks and Caicos Islands was 19,000, of whom 9,500 were non-belongers (including 6,750 Haitians). On the island of Providenciales, the population was over 10,000, of whom nearly 6,500 were non-belongers (5,000 of them thought to be Haitian). The illegal population was therefore estimated at around 3,000, mostly in Providenciales. Some more detailed historical and other information was provided in the United Kingdom's twelfth periodic report in respect of the Turks and Caicos Islands (CERD/C/226/Add.4).

Article 2

313. Article 2, paragraphs 1 (a) and 1 (b), of the Convention are given effect to by section 78 (1) of the Constitution of the Turks and Caicos Islands, which in essence provides that no law shall make any provision which is discriminatory either of itself or in its effect, and by section 78 (2), which in essence provides that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

314. Article 2, paragraph 1 (c), is given effect to by the regular review of the Turks and Caicos Islands's Country Policy Plan and by the system of scrutiny of legislation. When any legislation is passed by the Legislative Council in the Turks and Caicos Islands, the Attorney General and the Governor must be satisfied that it is constitutionally proper for the Governor to assent to it. Laws or regulations which had the effect of creating or perpetuating racial discrimination would not receive assent and would in any event be unconstitutional. There is a further safeguard known as the "non-disallowance" procedure. Under this procedure, copies of all primary legislation enacted by the legislative of a dependant territory are sent by the Governor to the Secretary of State for Foreign and Commonwealth Affairs and the legislation is scrutinized by one of his legal advisers who will be familiar with the United Kingdom's obligations under the Convention. This procedure is not just a formality: e.g. requests for clarification are regularly made and, if necessary, a territory will be requested to amend the legislation in question.

315. As regards article 2, paragraph 1 (d), there is at present no legislation in the Turks and Caicos Islands equivalent to the United Kingdom's Race Relations Act 1976. It may well be that racial discrimination by private persons, groups or organizations in the Turks and Caicos Islands would give rise to a civil remedy in particular circumstances. However, it has hitherto been the view of the government of the Turks and Caicos Islands that the circumstances of the Turks and Caicos Islands have not required legislation in this field. Nevertheless, the strong views expressed by the Committee during the examination of the United Kingdom's twelfth periodic report have been relayed to the government of the Turks and Caicos Islands and they have been asked to consider the need for such legislation. The United Kingdom has

supplied all the dependent territories with copies both of the United Nations Secretariat's model legislation (A/48/558) and of a model law drafted specifically with their needs and legislative style in mind. The Turks and Caicos Islands government itself has recognized the need for legislation and has decided to prepare legislation with a view to enactment.

316. As regards article 2, paragraph 1 (e), organizations which promote friendship and understanding between races are encouraged and flourish in the Turks and Caicos Islands, e.g. the Scouts, Girl Guides, Kiwanis and Soroptimists.

Article 3

317. There are no reported instances of racial segregation or apartheid-type practices in the Turks and Caicos Islands. However, the Committee's view that this article can apply to matters such as choice of school has been noted and the government of the Turks and Caicos Islands will continue to be opposed to such practices occurring there. The model legislation which has been proposed to the dependent territories prohibits racial segregation as a form of racial discrimination.

318. The government of the Turks and Caicos Islands welcomes the dismantling of apartheid in South Africa. The legislation on South African sanctions which had been extended to the Turks and Caicos Islands, as to other United Kingdom dependent territories, has been revoked.

Article 4

319. As regards article 4 (a), acts of violence or incitement to such acts would of course constitute offences under the criminal law. It is not, however, presently an offence to disseminate ideas based on racial superiority or hatred or to provide assistance to racist activities, including the financing thereof. Likewise, there is no legislation proscribing racist organizations or participation in them, as set out in article 4 (b). The legislation which the government of the Turks and Caicos Islands has decided to prepare to give full effect to the Convention will address these issues. A member of a racist organization might well be excluded from the Turks and Caicos Islands on the ground that his presence was not conducive to the public good. Article 4 (c) is implemented by section 78 of the Constitution.

320. The Committee's views on implementation of article 4 (a) and (b), set out most recently in General Recommendation XV and considered in detail in the examination of the United Kingdom's twelfth and thirteenth periodic reports, have been noted carefully. The situation in the Turks and Caicos Islands is markedly different from that in the United Kingdom in that incitement to racial hatred and the activities of racist organizations, such as the British National Party, are notable by their absence. The legislation which the government of the Turks and Caicos Islands has decided to have prepared will address the relevant obligations in the context of the particular circumstances of the Turks and Caicos Islands.

Article 5

321. Sections 67-79 of the Constitution give effect to the provisions of articles 5 (a), 5 (b), 5 (d)(i), (ii), (v) and (vii)-(ix), 5 (e)(ii) and 5 (f). Other provisions in article 5 are dealt with by the general prohibition of discrimination in section 78 of the Constitution. As regards article 5 (e)(v), the Convention against Discrimination in Education, adopted by UNESCO in 1960, was extended to the Turks and Caicos Islands with effect from 29 May 1964.

Article 6

322. Section 81 of the Constitution provides a remedy for contravention of its provisions on the protection of fundamental rights and freedoms. The Supreme Court has original jurisdiction to hear and determine an application and may make such orders, issue such writs and give such directions as it may consider appropriate in order to enforce those provisions. The Court is empowered to order redress in appropriate cases, provided that adequate redress is not otherwise available.

323. A complaint of dismissal from employment on racial grounds may be made to the Court. Such a ground is not a valid reason for dismissal, which would therefore be ruled unfair and liable to give rise to a right to compensation.

324. Individuals also have the right to submit petitions to the Governor, the Secretary of State and to Her Majesty The Queen.

Annexes to Part I of the report

(The Metropolitan Territory)

1. The British Social Attitudes Survey

2. Draft Race Relations (Northern Ireland) Order - Explanatory Document

3. The Chinese and Traveller communities in Northern Ireland

4. Judicial Studies Board - Fourth Annual Report of the Ethnic Minorities Advisory Group

5 Recruitment to the Judiciary

6. The Commissioner for Public Appointments' "Guidance on appointments to executive non-departmental public bodies and NHS trusts"

7. Home Office Immigration and Nationality Directorate: Statement on race relations

8. Blasphemy

9. List of Employment Service publications

10. Commission for Racial Equality's Annual Report (1995)

11. The role of Industrial Tribunals in England and Wales

12. Compensation awarded by tribunals - race discrimination cases

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